

Agenda



County of Inyo Board of Supervisors

Board of Supervisors Room
County Administrative Center
224 North Edwards
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

Public Notices: (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed fewer than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

Note: Historically the Board does break for lunch; the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

April 9, 2019

8:30 a.m. 1. PUBLIC COMMENT

CLOSED SESSION

2. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to potential litigation pursuant to (2) of subdivision (d) of Government Code §54956.9 (*one case*).
3. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code §54956.9 (*one case*).
4. **CONFERENCE WITH COUNTY'S LABOR NEGOTIATORS [Pursuant to Government Code §54957.6]** – Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. County designated representatives – Administrative Officer Clint Quilter, Assistant County Administrator Rick Benson, Deputy Personnel Director Sue Dishion, County Counsel Marshall Rudolph, Health and Human Services Director Marilyn Mann, and Chief Probation Officer Jeff Thomson.

OPEN SESSION (*With the exception of timed items, all open-session items may be considered at any time and in any order during the meeting in the Board's discretion.*)

10:00 a.m. PLEDGE OF ALLEGIANCE

5. **REPORT ON CLOSED SESSION**
6. **PUBLIC COMMENT**
7. **COUNTY DEPARTMENT REPORTS** (*Reports limited to two minutes*)
8. **EMPLOYEE SERVICE RECOGNITION** – The Board of Supervisors will recognize employee service milestones reached during the 2019 First Quarter.

DEPARTMENTAL – PERSONNEL ACTIONS

9. **ASSESSOR** – Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) Auditor-Appraiser I-II exists in the Assessor budget, as certified by the Assessor and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an open recruitment is more appropriate to ensure qualified candidates apply; and C)

approve the hiring of one (1) Auditor-Appraiser I, Range 70 (\$4,569 - \$5,557) or Auditor-Appraiser II, Range 72 (\$4,787 - \$5,815), depending upon qualifications.

10. **COUNTY ADMINISTRATOR – Recycling and Waste Management** – Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) Recycling and Waste Management Gate Attendant exists, as certified by the Assistant County Administrator and concurred with by the County Administrator and Auditor-Controller; and B) authorize the hiring of one (1) Gate Attendant, Range 48 (\$2,740 - \$3,320) from the recently established eligibility list.

CONSENT AGENDA (Approval recommended by the County Administrator)

COUNTY ADMINISTRATOR

11. ***Motor Pool*** – Request Board approve the repair of a Motor Pool vehicle in the amount of \$3,211.37 at Inyo-Mono Body Shop in Bishop.
12. ***Personnel*** – Request Board approve: A) the licensing agreement with GovInvest for Actuarial Services and Technology and approve the purchase of the module and annual fees in the amount of \$55,800; B) the licensing agreement with AdastraGov for Labor Negotiation Services and Technology and approve the purchase of the module and annual fees in the amount of \$15,810; and C) authorize the County Administrator to sign the license agreements.
13. ***Recycling and Waste Management*** – Request Board: A) award the bid for maintenance of the Olancha Transfer Station to Chuck Stewart of Olancha; B) approve the contract between the County of Inyo and Chuck Stewart of Olancha for Olancha Transfer Station maintenance in an amount not to exceed \$16,766 for the period of July 1, 2019 through June 30, 2022, contingent upon the Board's adoption of future County budgets; and C) authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

COUNTY COUNSEL

14. Request Board: A) receive and approve the revised 2018 Conflict of Interest Code Biennial Report from the Inyo County Sheriff's Department (Exhibit A); and B) receive and approve the department's Conflict of Interest Code (Exhibit B).

COUNTY COUNSEL/WATER DEPARTMENT

15. Request Board approve Amendment No. 1 to the agreement between the County of Inyo and Gregory L. James, Attorney at Law, for the provision of Water/Environmental Attorney services to the Water Department, to increase the Fiscal Year 2018-2019 contract limit by \$26,000 from \$100,000, for a total amount not to exceed \$126,000 contingent upon the Board's adoption of the Third Quarter Budget, and authorize the Chairperson to sign.

HEALTH & HUMAN SERVICES

16. ***Health*** – Request Board authorize HHS' participation in the Medi-Cal County Inmate Program and authorize the HHS Director to sign the county participation forms for Fiscal Year 2019-2020.

HEALTH AND HUMAN SERVICES/COUNTY ADMINISTRATOR – Emergency Services

17. Request Board: A) approve a Memorandum of Understanding between the American Red Cross and the County of Inyo for the period of April 9, 2019 through April 9, 2024; and B) authorize the County Administrator, as the appointed Director of Emergency Services, to sign the MOU.

PUBLIC WORKS

18. Request Board: A) award the five-year contract for semi-annual Kitchen Hood Fire Suppression System Inspection Services to Blizzard Fire Protection of Mammoth Lakes, CA in an amount not to exceed \$11,200, contingent upon the Board's approval of future budgets; B) authorize the Chairperson to sign the contract, contingent upon all appropriate signatures being obtained; and C) authorize the Public Works Director to sign all other contract

documents, including contract change orders, to the extent permitted pursuant to Section 20142 of the Public Contract Code and other applicable law.

19. Request Board: A) declare Etchemendy Engineering, Inc. a sole-source provider for the design of the Annex HVAC Retrofit Project; B) approve the contract between the County of Inyo and Etchemendy Engineering, Inc. of Reno, NV for engineering services for a lump sum amount of \$80,050; and C) authorize the Chairperson to sign the contract, contingent upon all appropriate signatures being obtained.
20. **Road Department** – Request Board approve the purchase of 120 linear feet of corrugated metal pipe culvert and the associated hardware from Western Nevada Supply of Bishop, CA in an amount not to exceed \$11,278.90.

SHERIFF

21. Request Board: A) request Board approve Amendment No. 1 to the agreement between the County of Inyo and CalOES for the provision of radio maintenance, extending the term of service for three years from July 1, 2016 through June 30, 2022 at the rate of \$21,667 for Fiscal Year 2019-2020, \$21,667 for Fiscal Year 2020-2021, and \$21,666 for Fiscal Year 2021-2022, increasing the total not-to-exceed amount by \$65,000 for a total amount not to exceed \$125,000, contingent upon the Board's approval of future budgets; and B) authorize the Sheriff or designee to sign.

DEPARTMENTAL (To be considered at the Board's convenience)

22. **WATER DEPARTMENT** – Request Board:
 - A) Provide direction to the County's representatives on the Owens Valley Groundwater Authority Board of Directors in advance of the OVGA meeting scheduled for April 18, 2019 in Bishop; and
 - B) Provide direction to the County's representatives on the Inyo-L.A. Standing Committee in advance of the Standing Committee meeting scheduled for May 6, 2019 in Independence.
23. **HEALTH & HUMAN SERVICES – Aging & Social Services** – Request Board ratify approve the agreement between the County of Inyo and RTZ Associates, Inc. for the provision of an online web portal for the GetCare program, in the amount of \$14,930 for the period of April 1, 2019 through June 30, 2019 and \$18,120 for Fiscal Year 2019-2020 and \$18,120 for Fiscal Year 2020-2021 for a total amount of \$51,170, contingent upon the Board's adoption of future budgets, and authorize the HHS Director to sign.
24. **PUBLIC WORKS** – Request Board: A) ratify and approve the contract between the County of Inyo and Raftelis Financial Consultants, Inc. for the provision of Water Rate Study Services for the Lone Pine, Independence, and Laws Town Water Systems in an amount not to exceed \$34,691 for the period of January 1, 2019 to December 31, 2019; and B) authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.
25. **PUBLIC WORKS – Road Department** – Request Board: A) approve Resolution No. 2019-16, titled, "A Resolution of the Board of Supervisors, of the County of Inyo, State of California, Identifying Projects to Be Funded by Road Maintenance and Rehabilitation Funds Pursuant to SB 1: the Road Repair and Accountability Act;" B) approve the recommended project lists attached to satisfy the documentation requirements to receive SB 1 Road Repair and Accountability Act of 2017 funding from the Road Maintenance and Rehabilitation Account; C) authorize the Public Works Department to apply for and submit all required documentation to receive the Inyo County allotment of SB 1 Road Repair and Accountability Act of 2017 funding; and D) authorize the Public Works Director, or his designee, to sign for the RMRA funding and all associated supporting documents.
26. **COUNTY ADMINISTRATOR** – Request Board approve Resolution No. 2019-17, titled, "A Resolution of the Board of Supervisors of the County of Inyo, State of California, Changing the Location of the Board's April 16, 2019 Regular Meeting," and authorize the Chairperson to sign.
27. **COUNTY ADMINISTRATOR – Recycling and Waste Management** – Request Board approve the Franchise Agreements with the County's waste haulers, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

28. **COUNTY ADMINISTRATOR – Recycling and Waste Management** – Request Board approve a floor rate increase for residential, commercial, and roll-off service for Permit Areas A & B in Inyo County.
29. **COUNTY ADMINISTRATOR – Emergency Services** – Request Board discuss and consider staff’s recommendation regarding continuation of the local emergency known as the “Here It Comes Emergency” that was proclaimed in anticipation of run-off conditions from near-record snowpack posing extreme peril to the safety of property and persons in Inyo County.
30. **COUNTY ADMINISTRATOR – Emergency Services** – Request Board discuss and consider staff’s recommendation regarding continuation of the local emergency known as the “Rocky Road Emergency” that was proclaimed as the result of flooding, mud, and rock landslides and deep snow drifts over portions of Inyo County caused by an atmospheric river weather phenomena that began January 3, 2017 and continued throughout February.

TIMED ITEMS (Items will not be considered before scheduled time but may be considered any time after the scheduled time)

- 11 a.m. 31. **COUNTY ADMINISTRATOR – Recycling and Waste Management** – Request Board: A) conduct a hearing to consider adding a late fee in the amount of 1.5% per month to gate fee accounts over 30 days delinquent; B) approve the proposed late fee effective June 1, 2019; C) approve Resolution No. 2019-18 authorizing late fees; and D) approve the attached Gate Fee Account Policy.
- 11 a.m. 32. **PLANNING** – Request Board: A) receive a presentation from staff regarding the status of short-term rentals in Inyo County, approximately one year after the Planning Department began accepting applications; and B) provide direction to the Planning Department on Short-Term Rental policy, and any elements that may require review or revision.
- 1 p.m. 33. **PRESENTATION** – Request Board receive a presentation that includes:
 - A) An overview from Southern California Edison on its Ivanpah-Control Project; and
 - B) A report from the California Public Utilities Commission on its procedure for review of SCE’s project, including the CEQA process, and the CPUC proceeding in the decision-making process.

Note: The agenda items listed below may be considered by the Board at any time during the meeting in the Board’s discretion, including before scheduled timed items.

COMMENT (Portion of the Agenda when the Board takes comment from the public and County staff)

34. **PUBLIC COMMENT**

BOARD MEMBER AND STAFF REPORTS

CORRESPONDENCE – INFORMATIONAL

35. **California Highway Patrol** – Report submitted pursuant to Health and Safety Code Section 25180.7 (Proposition 65), documenting information regarding the illegal discharge (or threatened illegal discharge) of hazardous waste on State Route 168 east of Wyman Canyon Road.
36. **State of California Fish and Game Commission** – Notice that proposed regulatory actions relative to bighorn sheep and elk may be continued to the Commission’s teleconference meeting on May 16, 2019.



COUNTY OF INYO

8

PERSONNEL DEPARTMENT

P. O. Box 249, Independence, California 93526

760-878-0377

760-878-0465 (Fax)

MEMORANDUM

To: Department Heads

From: Sue Dishion, Deputy Personnel Director

Date: April 2, 2019

Re: Employee Service Awards for 1st Quarter 2019

The following employees will be recognized for their service to the County of Inyo, at the Board of Supervisors Meeting on Tuesday, April 9, 2019 at 10:00 am. Please invite your employees to attend and be recognized.

Name	Hire Date	Years of Service	Department Head
Alisha McMurtrie	03/16/99	20	Elected
Nate Girardin	01/01/09	10	Jeff Hollowell
Kelvin Johnston	03/01/99	20	Jeff Hollowell
Lars Erickson	02/01/99	20	Jeff Thomson
Bernadette Warner	03/20/99	20	Jeff Thomson
Evelen Nunez	01/02/14	5	Marilyn Mann
Darcia Blackdeer-Lent	01/20/14	5	Marilyn Mann
Michelle Howell	01/30/14	5	Marilyn Mann
Sharon Wilson	01/30/14	5	Marilyn Mann
Jacob Arnal	02/13/14	5	Marilyn Mann
Ralph Cataldo Jr.	02/13/14	5	Marilyn Mann
Valerie Behrendt	02/01/99	20	Marilyn Mann
Keller Tjernagel	03/30/81	38	Mike Errante
Nancy Masters	03/26/84	35	Rick Benson



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
9

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Dave Stottlemyre, Assessor

FOR THE BOARD MEETING OF April 9, 2019

SUBJECT: Auditor-Appraiser I or II

DEPARTMENTAL RECOMMENDATION:

Request your Board find that, consistent with the adopted Authorized Position Review Policy: a) The availability of funding for this requested position is budgeted in the Assessor's budget, as certified by the Assessor and concurred with by the County Administrator and Auditor-Controller; and where internal candidates may meet the qualifications for the position, the vacancy could be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure qualified candidates apply, and c) Request Board find consistent with the Fiscal Year 2018-2019 Board Approved Budget approve the hiring of an Auditor-Appraiser I Range 70 (\$4,569-\$5,557) or an Auditor-Appraiser II Range 72 (\$4,787-\$5,815).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

This person performs Audits of the accounting records and other relevant records of industrial, commercial, and agricultural businesses in connection with the appraisal process. Additionally, this person performs appraisals using the guidelines established by the Board of Equalization. They must research appraisal techniques and assessment tax law to support their work, and prepares reports and correspondence related to audits and appraisals. They answer public inquiries, represent the Assessor in the assessment appeals process, and conduct field inspections at various locations within the county.

ALTERNATIVES:

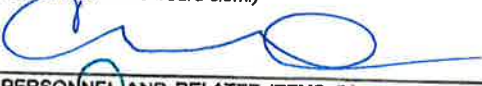
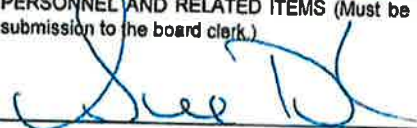
Your Board could choose not to approve the hiring of this position, but this would negatively impact the daily operations of the Assessor's office.

OTHER AGENCY INVOLVEMENT:

FINANCING:

Funding for this position is from the General Fund. This position is currently budgeted for in the Assessor's budget 010600, in the Salaries and Benefits object code.

APPROVALS

AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>4/4/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>✓</u> Date <u>4/4/19</u>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received.
(The Original plus 14 copies of this document are required.)



Date: 4-4-19



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 10

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Integrated Waste Management

FOR THE BOARD MEETING OF: April 10, 2019

SUBJECT: Request to fill vacant Recycling Waste Management Gate Attendant position.

DEPARTMENTAL RECOMMENDATION: Request Board find that consistent with the adopted Authorized Position Review Policy:

- 1) The availability of funding for the requested position exists as certified by the Department Head with concurrence by the County Administrator and Auditor-Controller; and
- 2) Authorize the filling of the Gate Attendant, Range 48 (\$2,740-\$3,320) from the recently established eligibility list.

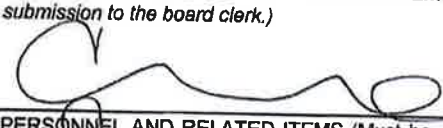
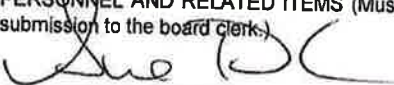
SUMMARY DISCUSSION: The FY 2018-19 Manpower Report (approved by your Board as part of the FY 2018-19 County Budget) identifies the landfill Gate Attendant positions (Range 43) as being assigned to the County's Recycling Waste Management program to provide necessary landfill waste load inspections and reporting. This position is critical to the operation of the County landfills. The gate attendants perform high volume waste disposal monitoring and reporting including load checking, to determine charges and to inspect for unacceptable hazardous waste items. The gate attendant will collect disposal fees, issue receipts and maintain accurate records on the fees collected and the volume of waste disposed.

The current gate attendant position became vacant with the recent resignation of an incumbent.

ALTERNATIVES: Your Board could choose not to authorize filling the vacant position, however, this is not recommended, as the functionality of the Recycling Waste Management programs will suffer. When a gate attendant position is vacant the other gate attendants and equipment operators backfill the position resulting in increased overtime and requiring the gate attendant to work their scheduled days off.

OTHER AGENCY INVOLVEMENT: Personnel

FINANCING: Funding for this position is included in the FY 2018-2019 Solid Waste Budget.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>4/1/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>✓</u> Date <u>4/1/19</u>

DEPARTMENT HEAD SIGNATURE:  Date: 4/1/19
 (Not to be signed until all approvals are received)
 (The Original plus 20 copies of this document are required)



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 11

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: Motor Pool

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Body Repair to Motor Pool Vehicle

DEPARTMENTAL RECOMMENDATION: Recommend that your Board approve the repair of a Motor Pool vehicle in the amount of \$3,211.37 at the Inyo Mono Body Shop of Bishop.

SUMMARY DISCUSSION: Motor Pool vehicle number 9423, a 2013 Toyota Rav 4, was recently rear ended.

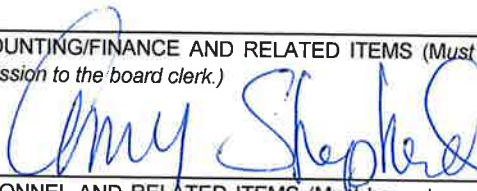
Inyo Mono Body Shop provided a quote in the amount of \$3,211.37 for repairs. The other party's insurance company has approved the repair.

Motor Pool has spent \$7,400.41 for Fiscal Year 18/19 with Inyo Mono Body Shop. With this current request, the amount spent with this vendor will be over \$10,000 which then requires Board approval.

ALTERNATIVES: Your Board could choose not to approve the repair of this vehicle; however, it is not safe to operate and the vehicle is of sufficient value to warrant the repair.

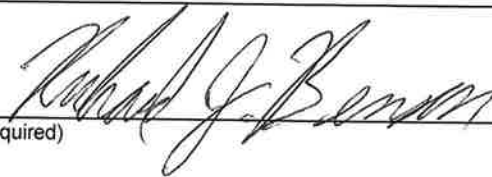
FINANCING: State Farm has issued a check in the amount of \$3211.37 made payable to Inyo County Motor Pool. This check will be deposited into the Motor Pool budget as a reimbursed expense. Motor Pool will then pay this expense out of the Motor Pool Budget 200100 Object Code 5171.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>3/27/19</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)
 (The Original plus 14 copies of this document are required)



Date: 3/27/19



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

12

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: County Administrative Officer - Personnel

FOR THE BOARD MEETING: April 9, 2019

SUBJECT: Approval of Licensing Agreements with GovInvest for Actuarial Services and Technology and AdastraGov for Labor Negotiations Services and Technology

DEPARTMENTAL RECOMMENDATION:

Request Board 1) Approve the Licensing Agreement with GovInvest for Actuarial Services and Technology and approve the purchase of the module and annual fees in the amount of \$55,800; and 2) Approve the Licensing Agreement with AdastraGov for Labor Negotiation Services and Technology and approve the purchase of the module and annual fees in the amount of \$15,810; and 3) Authorize County Administrative Officer to sign Licensing Agreements.

SUMMARY DISCUSSION:

Recently, the CAO, Auditor-Controller and Budget Analyst had the opportunity to receive an overview of actuarial services and technology options provided by GovInvest and AdastraGov. These companies provide tools to government agencies to assist in better understanding liabilities and manage those costs in the future. The actuaries on their staff provide real-time information, instant actuarial and financial analysis, and insights into how to pay down unfunded liabilities.

There are three modules that would be purchased along with annual rates. The Pension and OPEB modules help make GASB 68 simple and intuitive, while helping decision makers and constituents get a clear picture of the outstanding liabilities and the impact that economic and demographic variables have on the results. Currently the information that we receive from CalPERS actuarials are typically one to two years behind. This software will allow staff to provide more current information and also allows staff to provide different analysis if things were to change, such as, lowering of the discount rate, which is currently being discussed. Additionally the software could help analyze increases related to any labor negotiation discussions. This type of actuarial analysis typically takes months for a traditional actuarial consulting firm to provide, but with the software could be provided instantly. The Labor Costing Module is an innovative technological solution to assist in effectively providing total transparency around the fiscal impact of costs associated with proposals during negotiations.

The request before you is for the purchase of all three modules, and for the payment of five years of annual fees for the Pension module, one year of annual fees for the OPEB module and one year of annual fees for the Labor module, with the ability to extend years out for both OPEB and Labor.

ALTERNATIVES:

Your Board could choose not to approve the purchase and staff would continue to provide information that is available.

OTHER AGENCY INVOLVEMENT:

Auditor-Controller

FINANCING:

This purchase will be paid for from the Personnel Budget (010800) in Professional Services (5265). The changes in the Personnel Budget will occur during the Third Quarter Financial Review process.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: <u>yes</u> Date <u>4/3/19</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: <u>yes</u> Date <u>4/3/19</u>

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)
(The Original plus 14 copies of this document are required)

 Date: 4/3/19

SaaS Licensing Agreement



Attention: Clint Quilter, CAO

Prepared by: Ted Price, CEO

April 9, 2019

Summary of Services and Implementation

Customer:

Clint Quilter, CAO
PO Drawer N
Independence, CA 93526

Services:

Service Capacity: Use of the Standard Pension Module and Other Post-Employment Benefits Module of the Total Liability Calculator; Bi-annual GASB 75 Actuarial Valuation; Roll-forward GASB 75 Actuarial Valuation; Actuarially Determined Contribution Funding (ADC) Report (collectively, the "Service(s)").

Service Fees: Fees are payable annually, subject to the terms of Section 4 herein.

Total Contract Value Invoiced Annually.

OPTION - OPEB Module: \$12,500 total contract value. \$7,500 annual licensing fee. Option to extend for additional four-years starting at \$7,725 (+) the greater of the US CPI or 3% each consecutive year (+) \$5,000 onboarding fee. \$47,318 total contract value for five-years.

Total Contract Value Invoiced Up-front.

Pension Module: \$45,000 total contract value. \$8,000 annual licensing fee for five-years (+) \$5,000 onboarding fee.

OPTION - OPEB Module: \$15,000 total contract value. \$7,500 annual licensing fee. Option to pay upfront for four additional years at \$6,500 annual licensing fee (+) \$7,500 onboarding fee. \$41,000 total contract value.

Initial Term: Five-years from Effective Date for Pension Module.

Initial Term: One-years from Effective Date for OPEB Module.

Implementation Services:

Company will use commercially reasonable efforts to provide Customer the services described in accordance with the terms herein, and Customer shall pay Company the Implementation Fee in accordance with the terms herein.

Pension Implementation Fee (One-Time): \$5,000.


OPEB Implementation Fee (One-Time): \$7,500.

Additional 7% discount off total contract value if either GovInvest software (Pension or OPEB) purchased with Labor Costing Module.

SERVICE AGREEMENT

This SaaS Services Agreement (“Agreement”) is entered into on this 9th day of April, 2019 (the “Effective Date”) between GovInvest, Inc. (“Company”), and the Customer listed above (“Customer”). This Agreement includes and incorporates the above Summary of Services and Implementation, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different or additional terms of any purchase order, confirmation or similar form, even if signed by the parties before or after the date hereof.

GovInvest Inc.

By: 
Name: Ted Price
Title: CEO and Co-founder
Date: 4-2-19

Inyo County

By: _____
Name: _____
Title: _____
Date: _____

TERMS AND CONDITIONS

1. SAAS SERVICES AND SUPPORT

- 1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services in accordance with the Service Level Terms attached hereto as Exhibit A. As part of the registration process, Customer will identify an administrative user name and password for Customer’s account. Company reserves the right to refuse registration or cancel passwords it deems inappropriate.
- 1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services in accordance with the terms set forth in Exhibit B.

2. RESTRICTIONS AND RESPONSIBILITIES

- 2.1 Customer will not, directly or indirectly; reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to or used to provide the Services (“Software”); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted in writing by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.
- 2.2 Further, Customer shall not export or re-export, either directly or indirectly, the Software or any copies thereof in such manner as to violate the export laws and regulations of the United States or any other applicable jurisdiction in effect from time to time (including, without limitation, when such export or re-export requires an export license or other governmental approval without first obtaining such license or approval). Without limiting the foregoing, Customer shall not permit any third parties to access or use the Services in violation of any United States export embargo, prohibition, or restriction.
- 2.3 Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorney’s fees) in connection with any claim or action that arises from Customer’s failure to comply with the terms of this Agreement or otherwise from Customer’s use of Services. Although Company has no

obligation to monitor Customer's use of the Services, Company may do so. Company reserves the right, in its sole discretion, to prohibit or suspend Customer's use of the Services at any time Company believes such use to be in violation of this Agreement or otherwise harmful to the Service.

- 2.4 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

3. **CONFIDENTIALITY; PROPRIETARY RIGHTS**

- 3.1 One party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data ("Customer Data") provided by Customer to Company to enable the provision of the Services. The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third party any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, without any action by, or involvement of, the Receiving Party or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law. The Receiving Party acknowledges that in the event of a breach of Section 3.1 by the Receiving Party, substantial injury could result to the Disclosing Party and money damages will not be a sufficient remedy for such breach. Therefore, in the event that the Receiving Party engages in, or threatens to engage in, any act which violates Section 3.1, the Disclosing Party will be entitled, in addition to all other remedies which may be available to it under law, to seek injunctive relief (including, without limitation, temporary restraining orders, or preliminary or permanent injunctions) and specific enforcement of the terms of Section 3.1. The Disclosing Party will not be required to post a bond or other security in connection with the granting of any such relief.
- 3.2 Company shall own and retain all rights, title and interest in and to: (i) the Services and Software, together with all improvements, enhancements, modifications, changes, translations, compilation, and derivative works thereto, (ii) any software, applications, inventions or other technology developed in connection with Implementation Services or support, (iii) any analytics generated through Customer's use of the Services, including but not limited to, any data, materials, information, and reports ("Analytics") and (iv) all intellectual property rights related to any of the foregoing. Company hereby grants Customer a non-exclusive, non-transferable and non-sublicensable license to access and use the Analytics.
- 3.3 Notwithstanding anything to the contrary, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to: (i) use such information and data to improve and enhance the Services

and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, (ii) disclose such data solely in aggregate or other de-identified form in connection with its business, and (iii) disclose, share, license, or resell Analytics to third parties for consideration. No rights or licenses are granted except as expressly set forth herein.

4. PAYMENT OF FEES

- 4.1 Customer will pay Company the then applicable fees described in the Summary of Services and Implementation in accordance with the terms therein (the “Fees”). If Customer’s use of the Services exceeds the Service Capacity set forth in the Summary of Services and Implementation or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or then current Renewal Term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company’s customer support department.
- 4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes associated with Services other than U.S. taxes based on Company’s net income.
- 4.3 Services may be provided outside the scope encompassed within the “Summary of Services and Implementation”. Said services may be subject to additional fees, which are set at \$600/hour for executive-level work, \$425/hour for FSA-level work, \$300/hour for ASA-level work, \$200/hour for analyst work, and reasonable travel expenses. Said services that are subject to additional fees will not be performed without explicit advance consent from Customer.
- 4.4 Company may incur business license fees that are mandated by Customer. Customer agrees to reimburse Company for said fees.
- 4.5 Company may incur costs for adding Customer as additional insured to Company’s existing insurance policies in order to comply with Customer’s insurance requirements. Customer agrees to reimburse Company for said costs.
- 4.6 Company may incur costs for providing a waiver of subrogation in relation to Company’s existing insurance policies in order to comply with Customer’s insurance requirements. Customer agrees to reimburse Company for said costs.

5. TERM AND TERMINATION

- 5.1 Subject to earlier termination as provided below, the Initial Term of this Agreement shall be for a period specified in the Summary of Services and Implementation (the “Initial Term”). Upon the expiration of the Initial Term, this agreement shall automatically renew for additional periods of the same duration as the Initial Term (each a “Renewal Term”). The Initial Term and the Renewal Term are collectively referred to herein as the “Term.”
- 5.2 In addition to any other remedies it may have, either party may terminate this Agreement upon thirty (30) days written notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. All sections of this Agreement which by their nature should survive termination will survive termination,

including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. **WARRANTY AND DISCLAIMER**

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner as expressed in Exhibit C. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. However, Company does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES, THE ANALYTICS, AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

7. **INDEMNITY**

Company shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service (i) not supplied by Company, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by Company, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Company to be infringing, Company may, at its option and expense (a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.

8. **LIMITATION OF LIABILITY**

8.1 FOR ANY VALUATION SERVICES PROVIDED HEREUNDER, COMPANY IS A PASSIVE CONDUIT THAT CONNECTS CUSTOMER WITH SUBCONTRACTORS WHO PERFORM THE SERVICES AND PROVIDE THE WORK PRODUCT HEREIN. ACCORDINGLY, UNDER NO CIRCUMSTANCES WILL COMPANY HAVE ANY LIABILITY FOR THE ACTIONS AND/OR INACTIONS OF THIRD PARTIES THAT PROVIDE THE VALUATIONS AND THE SOLE LIABILITY SHALL REST WITH SUCH THIRD PARTIES. IN NO EVENT SHALL COMPANY, BE LIABLE ON ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE,

FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF CHARGES PAID BY CUSTOMER FOR THE SERVICES AND/OR DELIVERABLES WHICH GAVE RISE TO SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. IN ADDITION, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOOD WILL EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

9. **MISCELLANEOUS**

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may not transfer or assign any of its rights and obligations under this Agreement without Customer's prior written consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and all waivers and modifications in this Agreement must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. The parties shall work together in good faith to issue at least one mutually agreed upon press release within 90 days of the Effective Date, and Customer otherwise agrees to reasonably cooperate with Company to serve as a reference account upon request.

EXHIBIT A
Service Level Terms

The Services shall be available 99% of the time, measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than 12 hours, Company will credit Customer 1% of Service Fees for each period of 30 or more consecutive minutes of downtime; provided that no more than one such credit will accrue per day. Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place, and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Company in writing within 12 hours from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event. Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.

EXHIBIT B
Support Terms

Company will provide Technical Support to Customer via both telephone and electronic mail on weekdays during the hours of 9:00 a.m. through 5:00 p.m. Pacific Standard Time, with the exclusion of Federal Holidays (“Support Hours”).

Customer may initiate a help desk ticket during Support Hours by calling 310-371-7106 or any time by emailing support@govinvest.com.

Company will use commercially reasonable efforts to respond to all help desk tickets within one (1) business day.

EXHIBIT C
Disclaimer of Software Analysis

Company will use census data, plan provisions, and actuarial assumptions provided by Customer and/or Customer's actuary to develop the software for Customer. Company will rely on this information without audit. Company does not set actuarial assumptions.

Company will provide software with financially sound projections and analysis, but does not guarantee compliance with actuarial standards for funding and accounting purposes under Government Accounting Standards Board or Generally Accepted Accounting Principles.

The software will not be prepared in accordance with the actuarial standards of practice or actuarial compliance guidelines as promulgated by the American Academy of Actuaries nor will outputs constitute a Statement of Actuarial Opinion. Software results are not suitable for financial reporting purposes.

While the software is tested against actuarial valuation results, the software results will not match, nor are intended to match actuarial valuation results.

SaaS Licensing Agreement



Attention: Clint Quilter, CAO

Prepared by: Ted Price, CEO

April 9, 2019

Summary of Services and Implementation

Customer:

Clint Quilter, CAO
PO Drawer N
Independence, CA 93526

Services:

Service Capacity: Use of the Labor Costing Module (the "Service(s)").

Initial Term: One year from the Effective Date.

Regular Annual Pricing: Total Contract Value Invoiced Annually.

Labor Costing Module: \$17,00 total contract value. \$9,000 annual licensing fee. Option to extend for four additional years starting at \$9,270 annual license fee (+) the greater of the US CPI or 3% each consecutive year. \$55,782 total contract value.

Discounted Annual Pricing: Total Contract Value Invoiced Up-front.

Labor Costing Module: \$17,000 total contract value. \$9,000 annual licensing fee. Option to pay upfront for four additional years for \$32,000. \$8,000 annual licensing fee. \$49,000 total contract value

Implementation Services:

Company will use commercially reasonable efforts to provide Customer the services described in accordance with the terms herein, and Customer shall pay Company the Implementation Fee in accordance with the terms herein.

Implementation Fee (One-Time): \$8,000

Total Contract Value:

Regular Total Contract Value:	<u>\$55,782</u>
Discounted Total Contract Value Up-front:	<u>\$49,000</u>
Savings:	<u>\$6,782</u>

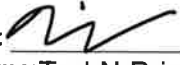
Additional 7% discount off total contract value if either GovInvest software (Pension or OPEB) purchased with Labor Costing Module.

SERVICE AGREEMENT

This SaaS Services Agreement (“Agreement”) is entered into on this 9th day of April, 2019 (the “Effective Date”) between AdastraGov, Inc. (“Company”), and the Customer listed above (“Customer”). This Agreement includes and incorporates the above Summary of Services and Implementation, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different or additional terms of any purchase order, confirmation or similar form, even if signed by the parties before or after the date hereof.

AdastraGov Inc.

Inyo County

By: 
Name: Ted N Price III
Title: CEO
Date: 4-2-19

By: _____
Name: _____
Title: _____
Date: _____

TERMS AND CONDITIONS

1. **SAAS SERVICES AND SUPPORT**

- 1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services in accordance with the Service Level Terms attached hereto as Exhibit A. As part of the registration process, Customer will identify an administrative user name and password for Customer’s account. Company reserves the right to refuse registration or cancel passwords it deems inappropriate.
- 1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services in accordance with the terms set forth in Exhibit B.

2. **RESTRICTIONS AND RESPONSIBILITIES**

- 2.1 Customer will not, directly or indirectly; reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to or used to provide the Services (“Software”); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted in writing by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.
- 2.2 Further, Customer shall not export or re-export, either directly or indirectly, the Software or any copies thereof in such manner as to violate the export laws and regulations of the United States or any other applicable jurisdiction in effect from time to time (including, without limitation, when such export or re-export requires an export license or other governmental approval without first obtaining such license or approval). Without limiting the foregoing, Customer shall not permit any third parties to access or use the Services in violation of any United States export embargo, prohibition, or restriction.
- 2.3 Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorney’s fees) in connection with any claim or action that arises from Customer’s failure to comply with the terms of this Agreement or otherwise from Customer’s use of Services. Although Company has no obligation to monitor Customer’s use of the Services, Company may do so. Company reserves the right, in its sole discretion, to prohibit or suspend Customer’s use of the Services at any time

Company believes such use to be in violation of this Agreement or otherwise harmful to the Service.

- 2.4 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

3. **CONFIDENTIALITY; PROPRIETARY RIGHTS**

- 3.1 One party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data ("Customer Data") provided by Customer to Company to enable the provision of the Services. The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third party any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, without any action by, or involvement of, the Receiving Party or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law. The Receiving Party acknowledges that in the event of a breach of Section 3.1 by the Receiving Party, substantial injury could result to the Disclosing Party and money damages will not be a sufficient remedy for such breach. Therefore, in the event that the Receiving Party engages in, or threatens to engage in, any act which violates Section 3.1, the Disclosing Party will be entitled, in addition to all other remedies which may be available to it under law, to seek injunctive relief (including, without limitation, temporary restraining orders, or preliminary or permanent injunctions) and specific enforcement of the terms of Section 3.1. The Disclosing Party will not be required to post a bond or other security in connection with the granting of any such relief.
- 3.2 Company shall own and retain all rights, title and interest in and to: (i) the Services and Software, together with all improvements, enhancements, modifications, changes, translations, compilation, and derivative works thereto, (ii) any software, applications, inventions or other technology developed in connection with Implementation Services or support, (iii) any analytics generated through Customer's use of the Services, including but not limited to, any data, materials, information, and reports ("Analytics") and (iv) all intellectual property rights related to any of the foregoing. Company hereby grants Customer a non-exclusive, non-transferable and non-sublicensable license to access and use the Analytics.
- 3.3 Notwithstanding anything to the contrary, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to: (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, (ii) disclose such data solely in aggregate or other de-identified

form in connection with its business, and (iii) disclose, share, license, or resell Analytics to third parties for consideration. No rights or licenses are granted except as expressly set forth herein.

4. **PAYMENT OF FEES**

4.1 Customer will pay Company the then applicable fees described in the Summary of Services and Implementation in accordance with the terms therein (the "Fees"). If Customer's use of the Services exceeds the Service Capacity set forth in the Summary of Services and Implementation or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or then current Renewal Term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company's customer support department.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes associated with Services other than U.S. taxes based on Company's net income.

5. **TERM AND TERMINATION**

5.1 Subject to earlier termination as provided below, the Initial Term of this Agreement shall be for a period specified in the Summary of Services and Implementation (the "Initial Term"). Upon the expiration of the Initial Term, this agreement shall automatically renew for additional periods of the same duration as the Initial Term (each a "Renewal Term"). The Initial Term and the Renewal Term are collectively referred to herein as the "Term."

5.2 In addition to any other remedies it may have, either party may terminate this Agreement upon thirty (30) days written notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. **WARRANTY AND DISCLAIMER**

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. However, Company does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES, THE ANALYTICS, AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES

OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

7. **INDEMNITY**

Company shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service (i) not supplied by Company, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by Company, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Company to be infringing, Company may, at its option and expense (a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.

8. **LIMITATION OF LIABILITY**

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO COMPANY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. **MISCELLANEOUS**

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may not transfer or assign any of its rights and obligations under this Agreement without Customer's prior written consent. This Agreement is the complete and exclusive statement of the mutual

understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and all waivers and modifications in this Agreement must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. The parties shall work together in good faith to issue at least one mutually agreed upon press release within 90 days of the Effective Date, and Customer otherwise agrees to reasonably cooperate with Company to serve as a reference account upon request.

EXHIBIT A
Service Level Terms

The Services shall be available 99% of the time, measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than 12 hours, Company will credit Customer 1% of Service Fees for each period of 30 or more consecutive minutes of downtime; provided that no more than one such credit will accrue per day. Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place, and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Company in writing within 12 hours from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event. Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.

EXHIBIT B
Support Terms

Company will provide Technical Support to Customer via both telephone and electronic mail on weekdays during the hours of 9:00 a.m. through 5:00 p.m. Pacific Standard Time, with the exclusion of Federal Holidays (“Support Hours”).

Customer may initiate a help desk ticket during Support Hours by calling (650) 269-6333 or any time by emailing support@adastragov.com.

Company will use commercially reasonable efforts to respond to all help desk tickets within one (1) business day.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 13

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Recycling and Waste Management

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Award the bid and approve the contract between County of Inyo and Chuck Stewart for Olancha Transfer Station Maintenance.

DEPARTMENTAL RECOMMENDATION: Request that your Board; 1) award the bid, and approve the Contract between the County of Inyo and Chuck Stewart of Olancha, California for the period of July 1, 2019 through June 30, 2022, in an amount not to exceed \$16,766 subject to Board adoption of future County budgets, and, 2) authorize the Chairperson to sign the contract contingent upon obtaining the appropriate signatures.


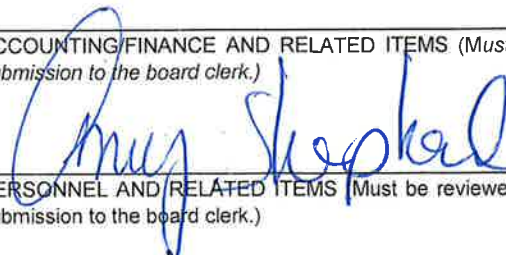
SUMMARY DISCUSSION: Recycling and Waste Management (RWM) operates four transfer stations and utilizes individuals to provide maintenance services. Since this is considered a small volume transfer station, a permanent gate attendant is not practical (at this time). RWM has determined that contracting for this service is the most cost effective method available. This contract is for maintenance of the Olancha Transfer Station which includes removal of windblown litter, weed removal and trash clean-up.

The solicitation for this service was posted in Olancha. Mr. Stewart, who currently performs these duties, was the only individual expressing an interest in doing the work. Department staff is happy with Mr. Stewart's performance.

ALTERNATIVES: County staff could be utilized to provide maintenance services, however, utilizing a local contractor is more cost effective.

OTHER AGENCY INVOLVEMENT: County Counsel, Risk Management, Auditor,

FINANCING: These services will be paid out of the Solid Waste Budget 045700, Object Code 5265 Special and Professional Services.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved:  Date 03/16/19
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>3/27/19</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE: (Not to be signed until all approvals are received)  Date 3/27/19

AGREEMENT BETWEEN COUNTY OF INYO

AND CHUCK STEWART
FOR THE PROVISION OF CLEANUP OF LITTER AT OLANCHA WASTE SITE SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the OLANCHA WASTE CLEANUP services of CHUCK STEWART of OLANCHA, 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.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by CAP AUBREY, whose title is: Waste Management Superintendent. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request 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 which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from July 1, 2019 to June 30, 2022 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services 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. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$16,776.00XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX Dollars (hereinafter referred to as "contract limit"). 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, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will 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. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will 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 four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by 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 California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, 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 or as otherwise may be required. 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, 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 County, upon execution of this Agreement, 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 County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from

receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for 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 County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of 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 County.

8. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and 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 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 County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to 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 County.

11. DEFENSE AND INDEMNIFICATION.

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) 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, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which 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, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NONDISCRIMINATION.

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, national origin, ancestry, physical handicap, medical condition, marital status, age, 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. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

15. ASSIGNMENT.

This is an agreement for the services of Contractor. 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 County.

Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

16. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, 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 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 twenty-three (23) below.

18. CONFIDENTIALITY.

Contractor further agrees to comply with the 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 information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

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.

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 County to enter 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, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

23. AMENDMENT.

This Agreement may be 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, and attached to the original Agreement to maintain continuity.

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or 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 to, the respective parties as follows:

County of Inyo
RECYCLING WASTE MANAGEMENT Department
163 MAY ST Street
BISHOP, CA 93514 City and State

Contractor:
CHUCK STEWART Name
P O BOX 240 Street
OLANCHA, CA 93549 City and State

25. 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.

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**AGREEMENT BETWEEN COUNTY OF INYO
AND CHUCK STEWART**
FOR THE PROVISION OF CLEANUP OF LITTER AT OLANCHA WASTE SITE SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS _____ DAY OF _____, _____.

COUNTY OF INYO

CONTRACTOR

By: _____
Signature

By: 
Signature

Print or Type Name

Chuck Stewart
Print or Type Name


Dated: _____

Dated: 3/12/19

APPROVED AS TO FORM AND LEGALITY:

County Counsel


APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:


County Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND CHUCK STEWART
FOR THE PROVISION OF CLEANUP OF LITTER AT OLANCHA WASTE SITE **SERVICES****

TERM:

FROM: JULY 1, 2019 **TO:** JUNE 30, 2022

SCOPE OF WORK:

Contractor agrees to provide the tools necessary to clean up waste and litter debris inside and outside of the transfer station. Areas of maintenance will include, but not necessarily be limited to the entry road and the area surrounding the transfer station in all directions at a minimum of 100 yards from the Olancha Transfer Station. All windblown paper and debris including all solid waste located in and around the area discussed above will be picked up and placed into the transfer station waste containers by the Contractor.

Maintenance will be provided as-needed but no less often than twice a week. Waste and litter will be picked up and placed in the waste bins for removal by the waste hauler.

If the Contractor suspects that hazardous material has been disposed of at the site, they will contact Recycling and Waste Management for instructions.

Contractor is entitled to claim all recycling and salvage materials that are picked up during the contractor's maintenance activities. No scavenging from dumpsters will be allowed due to inherent safety concerns.

Every month a calendar showing which days were worked, signed by contractor, shall be sent to:

Recycling and Waste Management
163 May St
Bishop, CA 93514

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO

AND CHUCK STEWART

FOR THE PROVISION OF CLEANUP OF LITTER AT OLANCHA WASTE SITE SERVICES

TERM:

FROM: JULY 1, 2019 **TO:** JUNE 22 ~~2020~~ 2022

SCHEDULE OF FEES:

\$466.00 PER MONTH



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

14

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: COUNTY COUNSEL

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: APPROVAL OF SHERIFF DEPARTMENT'S REVISED CONFLICT OF INTEREST CODE BIENNIAL REPORT AND CONFLICT OF INTEREST CODE

DEPARTMENTAL RECOMMENDATION: Request Board:

1. Receive and approve the revised 2018 Conflict of Interest Code Biennial Report from the Inyo County Sheriff's Department (Exhibit A); and
2. Receive and approve their Conflict of Interest Code (Exhibit B).

SUMMARY DISCUSSION: Government Code § 87306.5 requires that the Inyo County Board of Supervisors, no later than July 1st of each even numbered year, direct every local governmental agency within the county to review its Conflict of Interest Code and report to the Board no later than October 1, of each even numbered year. The report is a certification that the conflict of interest code has been reviewed and changes need be made to the code or that certain changes need to be made as indicated. Inyo County Ordinance Number 931 (County Code section 2.83.050) imposes similar requirements upon each district of the County to conduct a biennial review of its conflict of interest code.

The Sheriff's Department originally submitted its conflict of interest code for your approval on December 4, 2018. It is now amending its conflict of interest code by including new positions, making changes to the title of positions and deleting positions.


By this Agenda Request, the Board is asked to receive and approve the Sheriff Departments Conflict of Interest Code and Biennial Report (Exhibit A. through B). We have reviewed the Biennial Reports and Conflict of Interest Codes submitted to your Board, and find them to be in accordance with legal requirements.

ALTERNATIVES: If the Board feels that a biennial report is not accurate, it may direct that the report be returned to the originating Department for revision. Likewise, if the Board feels that a designated employee or the disclosure category set forth in the conflict of interest code is not appropriate or in accordance with the requirements of the law, your Board may elect to return the conflict of interest code to the Department for further revision. The Board could also decline to approve and receive the biennial report or the conflict of interest codes. Such action, however, would be contrary to the Board's duties as the County's conflict of interest code approving body.

OTHER AGENCY INVOLVEMENT: n/a

FINANCING: The recommended action results in no financial impact to the County of Inyo.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: <u>yes</u> Date <u>2/22/19</u>
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DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)  Date: 2/22/19

2018 DEPARTMENTAL CONFLICT OF INTEREST CODE BIENNIAL REPORT

Inyo County Ordinance No. 931 requires each department submit to the Board of Supervisors a biennial report identifying changes in its Conflict of Interest Code, or a statement that their code is not in need of amendment. Such reports shall be submitted to the Office of County Counsel for approval no later than October 1, of each even-numbered year. Once reviewed, the Office of County Counsel will submit all reports to the Board for their approval.

###

This department has reviewed its conflict of interest code and has determined that:

(1) Our department's code accurately designates all positions which make or participate in the making of governmental decisions; that the disclosure assigned those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those designated positions; and further that the code includes all other provisions required by Government Code Section 87302; or,

(2) Our department's code is in need of amendment. We have determined that the following amendments are necessary (check applicable items):

- Include new positions which must be designated.
- Make changes to the reportable sources of income, investments, business positions, or real property.
- Make changes to the titles of positions assigned.
- Delete positions which have been abolished or changed.
- Change or add the provisions required by Government Code Section 87302.

Contact Person RIANNAH READE
Department OFFICE OF THE SHERIFF
Mailing Address P.O. DRAWER 5
Date of Review of Departmental Conflict of Interest Code 3/20/2019



Signature of Department Head

Note: Government Code Section 87306 requires that when a department has determined that amendments are necessitated by changed circumstances, the amendments or revisions shall be submitted to the code reviewing body within 90 days.

CONFLICT OF INTEREST CODE OF THE
OFFICE OF THE SHERIFF **DEPARTMENT**
COUNTY OF INYO, STATE OF CALIFORNIA

SECTION 1. Purpose.

Pursuant to California Government Code section 87300, et seq., the OFFICE OF THE SHERIFF Department hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code section 81000). The provisions of this Conflict of Interest Code are additional to California Government Code section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Conflict of Interest Code shall be interpreted in a manner consistent therewith.

SECTION 2. Designated Positions.

The positions listed on Appendix "A" are designated positions. Employees holding these designated positions are deemed to make, or participate in the making of, decisions which may have a material effect on a financial interest.

SECTION 3. Disclosure Statements.

Each designated position is assigned to one or more of the disclosure categories set forth in Appendix "B". Each employee in a designated position shall file a statement of financial interests disclosing that employee's interest in investments, business positions, real property, and income, designated as reportable under the disclosure category to which the employee's position is assigned by Appendix "A".

Notwithstanding the disclosure category to which a consultant position is assigned by Appendix "A", the Director of the OFFICE OF THE SHERIFF Department may determine in writing that a particular consultant, although a "designated" position, is hired to perform a range of duties that are limited in scope and, thus, is not required to fully comply with the disclosure requirements of the category designated for consultants on Appendix "A". Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent, if any, of the disclosure requirements for such consultant. Such written determination is a public record and shall be filed and retained for public inspection in the same manner and locations as is required for statements of financial interest.

SECTION 4. Place, Time and Requirements of Filing.

(A) Place of Filing.

All employee's required to file a statement of financial interests shall file the original with the Inyo County Clerk, and a copy with the Director of OFFICE OF THE SHERIFF.

(B) Time and Content of Filing.

The first statement filed by an employee in a designated position upon the effective date of this Conflict of Interest Code, shall be filed within thirty (30) days after the effective date of this Conflict of Interest Code, and shall disclose investments, business positions, and interest in real property, held on the effective date of this Conflict of Interest Code, and income received twelve (12) months before the effective date of this Conflict of Interest Code. The first statement filed by an employee who assumes a designated position after the effective date of this Conflict of Interest Code, shall be filed within thirty (30) days after assuming such position with the County and shall disclose investments, business positions, and interests in real property held, and income received, during the twelve (12) months before the date of assuming such position. After filing the first statement, each employee in a designated position shall file an annual statement on or before April 1, disclosing reportable investments, business positions, interests in real property held, and income

received, any time during the previous calendar year or since the date the employee assumed the designated position during the calendar year. Every employee in a designated position who leaves a designated position shall file, within thirty (30) days of leaving the position, a statement disclosing reportable investments, business positions, interests in real property held, and income received, at any time during the period between the closing date of the last statement required to be filed, and the date of leaving the position.

SECTION 5. Contents of Disclosure Statement.

Statements of financial interest shall be made on forms supplied by the Inyo County Clerk and shall contain all of the information as required by the current provisions of Government Code sections 87206 and 87207 for interest in investments, business positions, real property, and sources of income designated as reportable under the disclosure category to which the employee's position is assigned on Appendix "A".

SECTION 6. Disqualification.

An employee in a designated position must disqualify himself or herself from making, or participating in the making, or using their official position to influence the making of any decision which will have a material financial effect, as distinguishable from its effect on the public generally, on any financial interest as defined in Section 87103 of the Government Code. No employee in a designated position shall be required to disqualify himself or herself with respect to any matter which could not be legally acted upon or decided without his or her participation.

APPENDIX "A"
CONFLICT OF INTEREST CODE OF THE
OFFICE OF THE SHERIFF DEPARTMENT
COUNTY OF INYO, STATE OF CALIFORNIA

DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Category</u>
UNDERSHERIFF	1
LIEUTENANT	2
ADMINISTRATIVE ASSISTANT	3
ADMINISTRATIVE CORPORAL	3
CIVIL OFFICER	3
FOOD SERVICE SUPERVISOR	3
PUBLIC AFFAIRS OFFICER	3

APPENDIX "B"

**CONFLICT OF INTEREST CODE OF THE
OFFICE OF THE SHERIFF _____ DEPARTMENT
COUNTY OF INYO, STATE OF CALIFORNIA**

DISCLOSURE CATEGORIES

DISCLOSURE CATEGORY ONE (1):

- a) Designated employees shall report all investments, business positions, interest in real property or source of income, if the business entities, sources of income (including receipt of gifts, loans and travel payments) and real property is located in the county of Inyo or within two (2) miles of county boundary and earned within two (2) years of the statement being filed.
- b) Designated employees shall report all investments, business positions, interest in real property or source of income, (including receipt of gifts, loans and travel payments) if the business entity or source provides leased facilities, products, equipment, vehicles, machinery or services (including training or consulting services) of the type utilized by the Agency.
- c) Designated employees shall report all investments, business positions, interest in real property or source of income, (including receipt of gifts, loans and travel payments) if the business entity or source is subject to the Agency's regulatory, permit or licensing authority.
- d) Designated employees shall report their gross income and community property interest in their spouse's gross income aggregating \$250 or more received from any source located in or doing business in county of Inyo.
- e) Designated employees shall report any loans, including real estate loans and margin accounts, received by either the employee or the employee's spouse aggregating \$250 or more from a single source which is located in, or doing business within county of Inyo

DISCLOSURE CATEGORY TWO (2):

- a) Designated employees shall report all investments, business positions, interest in real property or source of income, if the business entities, sources of income (including receipt of gifts, loans and travel payments) and real property located in the county of Inyo or within two (2) miles of county of Inyo earned within two (2) years prior to the statement being filed.
- b) Designated employees shall report all investments, business positions, interest in real property or source of income, (including receipt of gifts, loans and travel payments) if the business entity or source provides leased facilities, products, equipment, vehicles, machinery or services (including training or consulting services) of the type utilized by the Agency.
- c) Designated employees shall report all investments, business positions, interest in real property or source of income, (including receipt of gifts, loans and travel payments) if the business entity or source is subject to the Agency's regulatory, permit or licensing authority.

DISCLOSURE CATEGORY THREE (3):

- a) Designated employees shall report all investments, business positions, interest in real property or source of income, if the business entities, sources of income (including receipt of gifts, loans and travel payments) and real property located in the county of Inyo or within two (2) miles of county of Inyo.

DISCLOSURE REPORTING:

All disclosures and reporting shall be in conformance with the requirements contained in the Statement of Economic Interests Form 700 and instructions presented by the California Fair Political Practices Commission and in the California Government Code.

*Elected officials are subject to disclosure pursuant to FPPC Regulations located at Title 2, Division 6, Sections 18109-18997 of the California Code of Regulations



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

 15

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: COUNTY COUNSEL and WATER DEPARTMENT

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: APPROVAL OF CONTRACT WITH GREGORY L. JAMES, WATER/ENVIRONMENTAL ATTORNEY – WATER DEPARTMENT

DEPARTMENTAL RECOMMENDATION: Approve Amendment No. 1 to the Agreement between the County of Inyo and Gregory L. James, Attorney at Law, for the provision of Water/ Environmental Attorney services to the Water Department, to increase the FY 2018-19 contract limit by Twenty-Six Thousand Dollars (\$26,000.00), from One Hundred Thousand Dollars (\$100,000.00) to One Hundred Twenty-Six Thousand Dollars (\$126,000.00) Contingent upon adoption of 3rd Qtr. Budget.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: This requested amendment concerns Inyo County's contract with Mr. James which is primarily intended to represent the County on Water Department related matters. The contract also allows us to obtain Mr. James' services for other matters.



The existing contract limit of \$100,000.00 was designed primarily to cover water-related services, and appeared to be an accurate estimate of the need for those services when made. However, in light of the significant time required by Mr. James in litigation matters, there does not remain sufficient additional funds on Mr. James' contract to represent the County on water issues for the remainder of the fiscal year

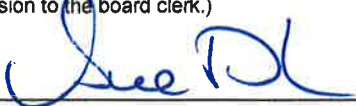

ALTERNATIVES: Decline to approve the Agreement with Gregory L. James as recommended, and direct that the office of County Counsel provide the County and its departments with legal services relating to Water and Environmental matters with existing attorney staff. This option would result in delays in completing requests for legal services for all but the most critical matters and the loss of continuity in ongoing projects, which the County Counsel does not believe is in the best interests of the County.

OTHER AGENCY INVOLVEMENT:

FINANCING:

Funding for the increased expenditure of \$26,000.00 will be discussed during the Third Quarter Budget Hearings. Funds are to be encumbered in the Water Department's Budget 024102 Object Code 5265.

<u>APPROVALS</u>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>  Approved: <u>yes</u> Date <u>3/28/19</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>  Approved: <u>yes</u> Date <u>4/2/2019</u>

PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved:  Date: <u>4/11/19</u>
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DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)  Date: 3/28/19

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)  Date: 4-3-19

**AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
GREGORY L. JAMES, ESQ.
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES REGARDING WATER DEPARTMENT**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Gregory L. James, Esq., of BISHOP, CALIFORNIA (hereinafter referred to as "Contractor"), have entered into an Agreement for the provision of legal services dated June 5, 2018, for the term from July 1, 2018 to June 30, 2019.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, the parties desire to amend such Agreement to increase the contract limit and to adjust Contractor's hourly rate for work directly related to litigation;

NOW, THEREFORE, County and Contractor hereby amend such Agreement as set forth below:

1. Section 3(E) of the Agreement (entitled "Limit Upon Amount Payable Under Agreement") is amended to read as follows:

"E. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement, including incidental expenses, if any, shall not exceed \$126,000 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed, including incidental expenses, which is in excess of the contract limit."

The effective date of this Amendment to the Agreement is April 9, 2019.

All the other terms and conditions of the Agreement not amended remain in full force and effect.

\\ \\ \\ \\ NOTHING FOLLOWS // // // //

**AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
GREGORY L. JAMES, ESQ.
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES REGARDING WATER DEPARTMENT**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By:  _____


Gregory L. James
Type or Print

APPROVED AS TO FORM AND LEGALITY:



County Counsel

APPROVED AS TO ACCOUNTING FORM:




County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:



Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:



County Risk Manager

s:CountyCounsel/Contracts/MiscAmendments/GJames/Amnd1 03262019



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

16

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: HEALTH & HUMAN SERVICES – Health

FOR THE BOARD MEETING OF: April 16, 2019

SUBJECT: Request approval to participate in Medi-Cal County Inmate Program (MCIP)

DEPARTMENTAL RECOMMENDATION:

Request the Board approve Health and Human Services (HHS), to participate in MCIP and authorize the HHS Director to sign the county participation forms for FY 2019/20.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Medi-Cal Inmate Program provides Medi-Cal coverage for eligible inmates who receive inpatient services at a medical facility located off the grounds of the correctional facility for an expected stay of more than 24 hours. This program will relieve the county of the federal share of these services provided to inmates. The medical provider will bill Medi-Cal as they usually do and receive payment. Department of Health Care Services will then quarterly submit invoices to the counties where the inmate is being held to recover the non-federal share of the services.

Several divisions within Health and Human Services (Health, Behavioral Health & Employment and Eligibility) have developed a comprehensive case management system to identify when an inmate's hospitalization meets these criteria so that the Medi-Cal application is completed timely; the dates of services and eligibility correspond; and services and costs are tracked. Your board previously authorized HHS to participate in the program for FY 2019-2020 and we are respectfully requesting authorization to continue our participation.

ALTERNATIVES:

Denying this request would leave the county responsible for all of the services provided to the inmate.



OTHER AGENCY INVOLVEMENT:

HHS divisions, Sheriff, and Probation

FINANCING:

Health Services Realignment. These expenses are paid out of Health (045100) in Professional Services (5265). No County General Funds.

APPROVALS

COUNTY COUNSEL: 	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.) Approved: <u>yes</u> Date: <u>4/3/19</u>
AUDITOR/CONTROLLER: 	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.) Approved: <u>yes</u> Date: <u>4/3/2019</u>

DEPARTMENT HEAD SIGNATURE: M. Mandy Tolson Date: 4/4/19
(Not to be signed until all approvals are received)



State of California—Health and Human Services Agency
Department of Health Care Services



Medi-Cal County Inmate Program
County Participation Form: State Fiscal Year 2019-20

County of Inyo chooses the option selected below in
County Name

response to voluntarily participate in the Medi-Cal County Inmate Program (MCIP) from
July 1, 2019 through June 30, 2020 for State Fiscal Year 2019-20:

[X] Voluntarily participating in MCIP- By selecting this option, we are
certifying our interest to voluntarily participate in the MCIP and intend to
submit a fully executed MCIP agreement.

[] Not Interested in participating in MCIP

I hereby certify, that the option selected above is the option that said county will abide by,
to the best of my knowledge, is true and accurate based on the time of submission.

County Official: _____ Date: _____
Signature

County Official Title: Director, Health and Human Services

County Official Phone: 760-873-3305

County Official Email: mmann@inyocounty.us

County Name: Inyo County Health and Human Services

Primary Contact: Anna Scott Alternate: Melissa Best Baker

Phone: 760-873-7868 Phone: 760-878-0232

Email: ascott@inyocounty.us Email: mbestbaker@inyocounty.us

Submit completed form to:
Department of Health Care Services
Safety Net Financing Division/Inmate Medi-Cal Claiming Unit
P.O. Box 997436, MS 4504
Sacramento, CA 95899-7436
EMAIL: DHCSIMCU@dhcs.Ca.Gov



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only: AGENDA NUMBER 17
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- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Health and Human Services
County Administration-Office of Emergency Services

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Memorandum of Understanding between the American Red Cross and the County of Inyo

DEPARTMENTAL RECOMMENDATION

Request your Board consider A) approving a Memorandum of Understanding (MOU) between the American Red Cross and the County of Inyo for the time period of April 9, 2019 through April 9, 2024; and , B) authorize the County Administrator, as the Appointed Director of Emergency Services, to sign the Memorandum of Understanding.

SUMMARY DISCUSSION

The Mission Statement of the American Red Cross is to prevent and alleviate human suffering in the face of emergencies by mobilizing the power of volunteers and the generosity of donors. Through its strong network of volunteers, donors and partners, they are always there in times of need, turning compassion into action so that our communities are ready and prepared for disasters.

The purpose of this MOU with the American Red Cross is to define a working relationship between the American Red Cross and the County of Inyo, the lead emergency management agency for the county. The MOU provides the broad framework for cooperation and support between the American Red Cross and Inyo County in assisting individuals, families and communities who have been or could be impacted by a disaster or an emergency. The MOU also provides the descriptions of readiness and response activities such as planning, training, exercising and resourcing, as well as clarification of roles and responsibilities of the Red Cross and Inyo County to the community and other agencies.

Inyo County employees and Red Cross workers will work cooperatively at the scene of a disaster and in the disaster recovery, within the scope of their respective roles and duties, and approved policies and procedures.

ALTERNATIVES


Your Board could choose not to enter into this MOU with the American Red Cross. However, this would not be in the best interest of the County.

OTHER AGENCY INVOLVEMENT

CalOES, FEMA, Inyo County Sheriff, Red Cross identified shelter facility owners, local vendors, Non-profits, Faith Based Community.

FINANCING

This MOU does not create a partnership, a joint power agreement, or a joint venture and does not create any financial commitments from one party to the other. Neither party has the authority to bind the other to any obligation.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <u>yes</u> Date: <u>4/6/19</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date: <u>4/1/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>✓</u> Date: <u>4/1/19</u>

DEPARTMENT HEAD SIGNATURE: 
(Not to be signed until all approvals are received) Date: 4/1/19

DEPARTMENT HEAD SIGNATURE: 
(Not to be signed until all approvals are received) Date: 4/1/19

Memorandum of Understanding

Between

The American Red Cross

and

The County of Inyo



**American
Red Cross**



April 2019

I. Purpose

The purpose of this Memorandum of Understanding ("MOU") is to define a working relationship between The American Red Cross (hereinafter "Red Cross") and Inyo County, its lead Emergency Management agency (hereinafter Inyo County Office of the Director of Emergency Services) and other departments, agencies, and offices in preparing for, responding to, and recovering from emergencies and disasters. This MOU provides the broad framework for cooperation and support between the Red Cross and Inyo County in assisting individuals, families and communities who have been or could be impacted by a disaster or an emergency. It also provides the descriptions of readiness and response activities, such as planning, training, exercising and resourcing, and the clarification of roles and responsibilities of the Red Cross and Inyo County to the community and other agencies.

II. Parties

A. Inyo County

Inyo County Code Chapter 2.56 provides for the preparation and carrying out of plans for the protection of persons and property within the County in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of the County with all other public agencies, corporations, organizations and affected private persons. (Ord. 215 § 1, 1972.)

B. American Red Cross

1. Services to help people prepare for, respond to, and recover from disasters

The Red Cross is a nongovernmental organization that mobilizes communities to aid people affected by or at risk of disasters with the aim of preventing and alleviating suffering. The Red Cross provides disaster cycle services without regard to race, color, national origin, religion, gender, age, disability, sexual orientation, citizenship or veteran status. It follows the Fundamental Principles of the International Red Cross and Red Crescent Movement. The Red Cross is closely integrated into community preparedness, response, and recovery efforts, including those of federal, tribal, state and local government and other nongovernmental organizations. Our goal is to work with multi-sector partners to help individuals, families, and communities prepare for, respond to, and recover from natural and manmade disasters of all sizes.

The Red Cross provides disaster cycle services pursuant to its Bylaws and other internal policies and procedures as well as its Congressional Charter (USC 36 §300101-300111). In the Charter, Congress authorized the Red Cross "to carry out a system of national and international relief in time of peace, and apply that system in mitigating the suffering caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry out measures for preventing those calamities."

Memorandum of Understanding Between American Red Cross and the County of Inyo

a. Preparedness

The Red Cross vision for preparedness is that we, together with community leaders, partners and other stakeholders have built community capacity and capability to survive, to minimize suffering and to recover quickly after a disaster or emergency; and that together we have made preparedness a cultural norm all across the nation. The components for achieving this vision include:

- *Assessing community hazards, priority risks, needs and asset;*
- *Engaging the community in preparedness (e.g. Home Fire Campaign);*
- *Enabling individuals and families and organizations to take preparedness actions;*
- *Leveraging our national network of volunteers and our ability to engage partners in direct preparedness actions within communities nationwide;*
- *Working with social service organizations and schools to help them, their clients and students survive and recover quickly from a disaster;*
- *Reinforcing preparedness for people and organizations who have taken preparedness actions.*

b. Response

The Red Cross vision for response is to alleviate human suffering in the face of emergencies by mobilizing and organizing community resources to meet the immediate life-sustaining needs of individuals, families and communities affected by disaster; to lay the groundwork for long-term recovery; and to build resilience for future events.

The range of services necessary to achieve this vision will vary based on the needs of those affected and the scale of the disaster. Additionally, there is often overlap between the provision of response and recovery services. The blending of the two processes is necessary for seamless service to individuals, families and communities. Response services most commonly include:

- *Home Fire Response Services*
- *Sheltering*
- *Feeding*
- *Health Services*
- *Mental Health Services*
- *Spiritual Care Services*
- *Reunification*
- *Distribution of Relief Supplies*
- *Information & Referrals*

c. Recovery

The Red Cross vision for recovery is to provide a standard and scalable set of services that align with available resources to bridge the gaps between client resources and serious human needs and that result in a similar set of assistance for similarly situated clients. Recovery services most commonly include:

- *Community Recovery Strategy Development*
- *Casework/Recovery Planning*
- *Direct Client Assistance*
- *Community Preparedness & Resiliency Building*

Memorandum of Understanding Between American Red Cross and the County of Inyo

**For large and/or complex recovery operations, where significant donor resources are available, expanded services or assistance may be provided.*

2. Services related to the National Response Framework

The Red Cross is a co-lead for the mass care component of Emergency Support Function (ESF) #6 of the National Response Framework (NRF). In this role, the Red Cross engages in a variety of activities to support states in their planning, coordinating and executing of mass care programs and strategies. The Red Cross also takes a leadership role in working with other non-governmental organizations and private companies that provide services during a disaster. Additionally, the Red Cross is a support agency to other ESFs – including ESF-8 and ESF-15 – in the NRF.

3. Services related to the National Recovery Framework

The Red Cross is among the supporting organizations for three Recovery Support Functions: Community Planning and Capacity Building; Health and Social Services; and, Housing. In these roles, the Red Cross engages at the headquarters level, as well as at the Federal Emergency Management Agency (FEMA) regional level, to provide insight and assistance in planning by drawing on Red Cross experience and representing the perspective of non-governmental organizations and private entities that provide recovery services.

4. Organization

The Red Cross is chartered by the United States Congress to provide humanitarian services. Its national headquarters, located in Washington, D.C., is responsible for implementing policies and procedures that govern Red Cross activities and provides administrative and technical oversight and guidance to its 62 regions in seven divisions. Each region has certain authority and responsibility for carrying out Red Cross disaster preparedness, response and recovery activities, delivering local Red Cross services, and meeting corporate obligations within the territorial jurisdiction assigned to it. Each region is familiar with the hazards of the locality and surveys local resources for personnel, equipment, supplies, transportation, emergency communications, and facilities available for disaster relief. Regions also formulate cooperative plans and procedures with local government agencies and private organizations for relief activities should a disaster occur.

Through its nationwide network, the Red Cross coordinates its total resources for use in large disasters. In order to provide these services, the Red Cross will work with federal, tribal, state and/or local government for assistance and collaboration.

III. Cooperative Actions

The Red Cross recognizes the authority assigned to city mayors, county judges, and other local county officials of Inyo County and will share operating plans, priorities and objectives with the delegated emergency management staff of the local jurisdiction.

Inyo County recognizes the national level roles and responsibilities designated to the Red Cross in the October 22, 2010 Memorandum of Agreement between FEMA and Red Cross.

Inyo County recognizes the Red Cross as having mass care responsibility in domestic disasters and when activated, authorizes and will support and coordinate with the Red Cross in the execution of these duties.

Memorandum of Understanding Between American Red Cross and the County of Inyo

The Red Cross and Inyo County will coordinate their respective disaster cycle activities to maximize services to the community and avoid duplication of efforts in the following ways:

1. Explore ways to align business and operational processes and programs across the disaster cycle in an effort to make a more seamless disaster preparedness, response, and recovery experience for residents of Inyo County.
2. Coordinate mutual activation of no-notice events through the established 24 hour notification point of contact and develop joint Standard Operating Procedures for ongoing communications, including use of electronic technology, radio communications, and other emergency coordination protocols.
3. Maintain close coordination, liaison activities, and support at all levels with conferences, meetings, and other means of communication. Include a representative of the other party in appropriate committees, planning groups and task forces formed to mitigate, prepare for, respond to, and recover from disasters and other emergencies.
4. During a disaster or emergency situation, the Red Cross will, at the request of Inyo County, provide liaison personnel to the Inyo County Emergency Operations Center. The Inyo County Office of the Director of Emergency Services will provide facility access and identification, work space, and, whenever possible, other required support, such as a computer, e-mail access and a designated phone line for the Red Cross liaison personnel assigned to the Emergency Operations Center.
5. The Inyo County Office of the Director of Emergency Services will support the Red Cross in the use of the National Shelter System (NSS) and the Red Cross will coordinate shelter information sharing and reporting with the Inyo County Office of the Director of Emergency Services.
6. The Inyo County Office of the Director of Emergency Services or designee will facilitate the Red Cross use of facilities for shelters and service delivery sites wherever possible. The terms and conditions of such use will be set forth in a separate agreement.
7. During disasters and emergencies, keep each other informed of the human needs created by the events and the services they are providing. Share current data regarding disasters, to include risk and hazard analysis, statistical information, social media verifications, historical information, emerging needs and trends, damage assessments, declarations, and service delivery plans.
8. Work together to develop plans, revise planning annexes, and identify resources to facilitate delivery of services to people with disabilities or other access and functional needs during a disaster.
9. Actively participate in reviewing and carrying out responsibilities outlined in the local emergency operations plans.
10. Both parties will ensure, to the fullest extent possible, that disaster operations within Inyo County will be as accessible as possible to people with disabilities or other access and functional needs, based on the American with Disabilities Act and related federal, state and local laws.
11. Prior to and during the time of disaster, keep the public informed of cooperative efforts through the public information offices of the Red Cross and the Inyo County Office of the Director of Emergency

Memorandum of Understanding Between American Red Cross and the County of Inyo

Services and explore opportunities for collaboration to provide community, family, and citizen disaster preparedness within Inyo County.

12. The Inyo County Office of the Director of Emergency Services recognizes that the Red Cross is dependent upon voluntary public financial donations. In accordance with applicable laws and regulations, the Inyo County Office of the Director of Emergency Services will support the Red Cross in locating and acquiring necessary resources in an emergency including a response to formal resource requests. Both parties will work together, as appropriate, to identify local sourcing solutions that expand disaster capabilities and enhance community resilience.
13. Both parties agree not to use or display any trademarks of the other without first receiving the express written permission to do so; however, the use of the trademarks of the other party is permitted for internal meeting notes and plans that are not publicly distributed and used during the normal course of business related to the purpose of the MOU. If either party desires to use the intellectual property of the other, the “requesting party” should submit the proposed promotional/marketing materials, press releases, website displays or otherwise proposed use of the trademarks to the “owning party” for review in advance of dissemination or publication.
14. The Red Cross will support the Inyo County Office of the Director of Emergency Services in integrating the efforts of the non-governmental organizations (NGOs) and Voluntary Organizations Active in Disaster (VOAD) that provide mass care services (e.g. Mass Care Feeding Task Forces) during disaster response operations.
15. Make training, educational and other developmental opportunities available to the other party’s personnel and explore joint training and exercises. Encourage all staff and volunteers to engage in training (e.g. ICS 300 and 400), exercises, and disaster response activities, as appropriate.
16. Widely distribute this MOU within the Red Cross and the Inyo County Office of the Director of Emergency Services departments and administrative offices and urge full cooperation.
17. Inyo County and Red Cross will endeavor to work together to provide mitigation and preparedness information to the County and its residents. Cooperative efforts could include distributing preparedness materials to targeted populations within the community, or requesting that local residents be encouraged to take part in pre-disaster preparedness planning efforts. Inyo County and Red Cross will ensure all materials are made available in accessible formats for people with disabilities and others with access and functional needs.
18. The Red Cross and Inyo County will work collaboratively to stock and stage necessary Red Cross shelter supplies, durable medical goods and consumable medical supplies in Red Cross trailers and/or other portable containers for deployment during shelter activations. Locations of trailers and portable containers will be mutually agreed upon by the Red Cross and the County.
19. Pursuant to the California Disaster Services Worker (DSW) Act, Inyo County will endeavor to make County employees available to work with the Red Cross as Disaster Service Workers to assist in mass care, sheltering and other support functions during the aftermath of any local disaster. The Parties mutually agree that the first priority for assignment of available County employees will be to address the operational needs of the County before County employees would be made available to the Red Cross for assignment for Red Cross functions.

IV. Periodic Review

The parties will, on an annual basis, on or around the anniversary date of this MOU, jointly evaluate their progress in implementing this MOU and revise and develop new plans, attachments or goals as appropriate. Both parties should notify the other if primary points of contact change.

V. Term and Termination.

This MOU is effective as of April 9, 2019. It expires on April 9, 2024. Six months prior to expiration, the parties will meet to review the progress and success of the cooperative effort. In connection with such review, the parties may decide to extend this MOU for an additional period not exceeding five years, and if so shall confirm this in a signed writing. This MOU may be terminated by written notification from either party to the other at any time and for any or no reason.

VI. Miscellaneous

This MOU does not create a partnership, a joint power agreement, or a joint venture and does not create any financial commitments from one party to the other. Neither party has the authority to bind the other to any obligation. It is not intended that this MOU be enforceable as a matter of law in any court or dispute resolution forum. The sole remedy for non-performance under this MOU shall be termination, with no damages or penalty.

Signature page follows.

Memorandum of Understanding Between American Red Cross and the County of Inyo

Signature Page

Inyo County Office of the Director of Emergency Services

The American Red Cross

By _____
(signature)

By _____
(signature)

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____

Contact Information _____

Contact Information _____

Telephone _____

Telephone _____

Email _____

Email _____

**PROTOCOLS FOR RED CROSS DISASTER
RELIEF SERVICES IN INYO & MONO
COUNTY**

The Red Cross supports government partners in meeting immediate emergency needs in the event of a disaster. Within the Inyo and Mono County service area, Red Cross has historically provided material and human resources, such as 100-person shelter trailers or shelter management teams, as well as subject matter expertise in support of disaster relief activities.

In addition, Red Cross monitors the regional jurisdiction for threats and hazards that would trigger Red Cross services. Close partnership with Inyo and Mono County partners enables prompt, effective service delivery when disaster strikes.

IDENTIFYING SHELTERING NEEDS

When the potential for *sheltering* services is identified, government partners provide 2-4 hours notice to the Red Cross, identifying the critical information needs:

- Number of people displaced
- Evacuation boundaries
- Road and facility access limitations
- Nature of services requested if any

RED CROSS SHELTERS

Purpose: Provides shelter for everyone in the community, including individuals with access and functional needs, including those with disabilities requiring supportive services to maintain independence and utilize the shelter and its programs and services.

- Red Cross shelters may only be authorized by a Red Cross official working in consultation with a designated local civil authority; i.e., Health and Human Services.
- A Red Cross shelter is staffed by trained Red Cross volunteers and employees, including health care and mental health care professionals.
- Designated Red Cross shelters should have a Facility (Shelter) Agreement on file with the Red Cross office. Agreements may be established with city or county facilities, schools, churches, or other privately-owned facilities.
- The Red Cross is responsible for costs incurred, including damage, to open and operate a shelter.
- A shelter is operational until the emergency passes and all shelter residents have made alternative arrangements.

When an *evacuation center* needs to transition into an overnight shelter, partners may require additional resources to sustain ongoing sheltering operations. Critical information needs for transitioning into a shelter are:

- Number of overnight stays
- Population estimates in impacted area
- Road and facility access limitations
- Nature of resources requested

EVACUATION CENTERS

Purpose: Provides a safe haven during an evacuation, large storm, or "pre-notice" incident. If sleeping accommodations are provided for clients, the evacuation center is transitioned to an evacuation shelter.

- An evacuation center may be requested and/or designated by local civil authorities, e.g., fire, law enforcement, and health and human services.
- An evacuation center is staffed by local civil officials and community volunteers.
- Evacuation centers may be city or county facilities, schools, churches, or other privately-owned facilities.
- The responsibility for costs incurred, including damage, to open and operate an evacuation center falls to the agency that requested and designated the evacuation center, or the facility owner/proprietor.
- Depending upon the incident and the availability of information regarding the incident, a decision may be made to declare the evacuation center as a shelter.

When Red Cross services are needed, contact our 24-Hour Disaster Dispatch at (800) 675-5799.

OTHER RED CROSS SERVICES

When disaster events increase in scale, scope and magnitude, Red Cross disaster relief services include sheltering, feeding, distribution of emergency supplies, reunification, recovery casework, health services, mental health services, spiritual care services, and disability integration services. When Red Cross services are needed, contact our 24-Hour Disaster Dispatch at **(800) 675-5799**.

When smaller scale disaster events occur, Red Cross provides disaster relief for immediate emergency needs through the Disaster Action Team (DAT). The geographical and hazard profile of Inyo and Mono Counties has required an integrated approach between Red Cross and County government to provide DAT assistance. The following process has been adopted when Disaster Action Team (DAT) services are needed:

Requests to respond to an impacted home are received through Red Cross Disaster Dispatch. When Red Cross services are needed, contact our 24-Hour Disaster Dispatch at **(800) 675-5799**. The Red Cross Duty Officer will be notified of the incident information, including deployed DAT members and/or County workers, incident location, nature of disaster, etc. Mono County has trained County workers with financial instruments to support the Disaster Action Team response and are responsible for providing the appropriate identified Red Cross Financial Assistance outlined by the Red Cross Duty Officer. Inyo County has Red Cross DAT Leaders with financial instruments to support the Disaster Action Team response and are responsible for providing the appropriate identified Red Cross Financial Assistance outlined by the Red Cross Duty Officer.

INTERAGENCY COMMUNICATION

- Mono and Inyo Counties provide Red Cross access to the County's Emergency Operations Center ("EOC") upon activation of the EOC through electronic, telephone means or via a government liaison provided by Red Cross. Red Cross will report through representatives of Mono and Inyo Counties Department of Health and Human Services.
- Routine communications will be maintained between Red Cross and Mono and Inyo Counties by conference calls, meetings, electronic messaging, and other means. Each Party will share current information regarding disasters, disaster declarations, and changes in regulations, legislation and protocols related to disaster relief.
- Representatives of Mono and Inyo Counties and the Red Cross will maintain open communication. Participants will encourage their respective agencies and affiliates to maintain open communication. Each participant will share current data regarding disasters (except for client information which may be confidential or privileged, unless disclosure has been expressly authorized by the client), disaster situational and operational reports, changes in policy or personnel contact information, and any additional information pertinent to disaster preparedness and response.

READINESS ACTIVITIES

- Red Cross will work closely with Mono and Inyo Counties to ensure *shelter agreements* and appropriate *shelter surveys* are completed for potential shelter facilities. As well as other necessary agreements and relationships such as feeding and medical services. Potential shelter and evacuation center locations are re-surveyed every 2 to 3 years to ensure it meets requirements to serve as a Red Cross shelter and can be made accessible to clients in need. Trained Red Cross and/or County workers support the periodic evaluation of all potential shelter locations as part of pre-disaster preparedness activities.
- Mono and Inyo Counties will invite Red Cross to attend all post-event *After Action* meetings when EOC activations or emergency shelter operations have occurred or to provide input for inclusion in any After

Action Report documents for incidents in which Red Cross participated.

- Mono and Inyo Counties and Red Cross shall work together to ensure the most correct information possible is found in County and Red Cross *disaster plans and procedures*.
- Mono and Inyo Counties and Red Cross will participate in one another's *disaster exercises*, as appropriate.
- Red Cross will provide *training*, as necessary, to any Mono and Inyo Counties agency employees and affiliated organizations (such as CERT) to ensure they correctly understand the roles, responsibilities, and limitations of Red Cross disaster relief services.
 - The Red Cross will provide access to Red Cross mass care and shelter training that will prepare County employees with basic knowledge and skills in sheltering and other Red Cross support functions in order to best prepare employees whose facilities are or may be used to support mass care or, who may serve as DSW workers. Mono and Inyo Counties and the Red Cross will jointly promote the training for County employees through individual departments. Shelter training will be required for Mono and Inyo Counties Department of Health and Human Services staff pre-identified as priority shelter workers.

PREPAREDNESS ACTIVITIES

Red Cross supports community preparedness activities to help prevent home fires, support families in preparing for disasters, and engaging the community in disaster response activities.

- *Sound the Alarm*: Red Cross provides Sound the Alarm (one each for Inyo and Mono) events each year. Red Cross and the Counties work together to identify groups of volunteers to support free fire alarm installations to the community. Red Cross will support these ongoing activities by providing the required logistical equipment (smoke alarms, home visit records, installer kits).
- *Preparedness Education*: Red Cross provides preparedness presentations by local Red Cross volunteers through the Prepare U and Prepare Seniors programs. The Prepare Teens and the Disney Pillowcase Project programs are provided by Red Cross Americorps during quarterly visits. Requests for any of these preparedness programs must be requested by contacting Guillermo.Sanchez@Redcross.org.
- *Volunteer Recruitment*: Red Cross hosts a Volunteer Bootcamp each year to help build the Red Cross Disaster Volunteer Workforce to support both Counties through these services: Disaster Action Team, Sound the Alarm, Sheltering, Preparedness Education, and Training.

COORDINATION AND INTERAGENCY COOPERATION

Mono and Inyo Counties and Red Cross will mutually ensure that disaster relief operations within the County are equally accessible to people with disabilities and others with access and functional needs.

Mono and Inyo Counties employees and Red Cross workers will work cooperatively at the scene of a disaster and in the disaster recovery, within the scope of their respective roles and duties, and approved policies and procedures.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

- Consent Departmental Correspondence Action Public Hearing
- Schedule time for Closed Session Informational

For Clerk's Use Only:
AGENDA NUMBER
18

FROM: Public Works Department

FOR THE BOARD MEETING OF: *APR 19* 2019

SUBJECT: Award of Contract for Kitchen Hood Fire Suppression System Inspection Services to Blizzard Fire Protection of Mammoth Lakes, California.

DEPARTMENTAL RECOMMENDATIONS: Request your Board:

- A. Award the five-year contract for semi-annual Kitchen Hood Fire Suppression System Inspection Services to Blizzard Fire Protection of Mammoth Lakes, California in the amount not to exceed eleven thousand, two hundred dollars (\$11,200.00).
- B. Authorize the Board Chairperson to sign the contract, contingent upon Board approval of future budgets and appropriate signatures being obtained; and,
- C. Authorize the Public Works Director to sign all other contract documents, including change orders, to the extent permitted pursuant to Section 20142 of the Public Contract Code and other applicable law.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: This project will provide inspection and testing of fire suppression systems in ANSUL kitchen hoods every 6 months over the five-year term of the contract for kitchens located at the following County buildings: Inyo County Jail, 550 S. Clay St., Independence, CA; Statham Hall (ESAAA Kitchen), 138 N. Jackson St., Lone Pine, CA; Bishop Senior Center (ESAAA Kitchen), 506 Park Avenue, Bishop, CA; and Bishop Airport Terminal Restaurant, 703 N. Airport Rd., Bishop, CA.

On February 21, 2019, the Public Works Department advertised for Kitchen Hood Fire Suppression System Inspection Services. One bid was received by bid opening on March 13, 2019. The bid was submitted by Blizzard Fire Protection and it meets the project bid proposal requirements. The County has previously had a three year contract with Blizzard Fire Protection and was pleased with the services provided.

The Inyo County Public Works Department would like to enter into a Service Contract with Blizzard Fire Protection to provide Kitchen Hood Fire Suppression System Inspection Services for four County buildings, for a period of five years from April 9, 2019 to December 31, 2023.

ALTERNATIVES: Your Board could choose not to award the bid and service contract for the Project and to readvertise. This is not recommended because it is unlikely that readvertising will result in additional bids.

OTHER AGENCY INVOLVEMENT: The Auditor's Office to make payments to the contractor after the contract is awarded; Office of the County Counsel for review of the contract documents.

FINANCING: The service costs will be paid through budget unit 011100, Building & Maintenance, object code 5191, the amount of not to exceed \$2,240.00 per year.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) <i>Grace Chuchla</i> Approved: <u>3/22/19 yes</u> Date <u>3/22/19</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) <i>[Signature]</i> Approved: <u>yes</u> Date <u>3/25/2019</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) *[Signature]* Date: 2019.04.01

**AGREEMENT BETWEEN COUNTY OF INYO
AND BLIZZARD FIRE PROTECTION
FOR THE PROVISION OF KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Kitchen Hood Fire Suppression System Inspection services of Blizzard Fire Protection of Mammoth Lakes, California (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.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Chris Cox, whose title is: Building & Maintenance Supervisor. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request 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 which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from April 9, 2019 to December 31, 2023 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services 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.

**AGREEMENT BETWEEN COUNTY OF INYO
AND BLIZZARD FIRE PROTECTION
FOR THE PROVISION OF KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____
Signature

Print or Type Name

Dated: _____

CONTRACTOR

By: 
Signature

MICHELE KINNEY
Print or Type Name

Dated: 03/19/2019

APPROVED AS TO FORM AND LEGALITY:

County Counsel



APPROVED AS TO ACCOUNTING FORM:



County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:



Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND BLIZZARD FIRE PROTECTION
FOR THE PROVISION OF KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**

TERM:

FROM: April 9, 2019 **TO:** Dec 31, 2023

SCOPE OF WORK:

The Scope of Work for this contract will include the following for each ANSUL Hood listed on the bid sheet:

- Inspection and testing of ANSUL R-102 Wet Chemical Fire Suppression systems in kitchen hoods every 6 months (per California 2016 Fire Code, Section 904 and California Code of Regulations, Title 19, Division 1, Chapter 5).
- Tests shall include a check of the detection system, alarms and releasing devices, including manual stations and other associated equipment.
- Fire suppression system units shall be weighed and the required amount of agent verified. If needed, retardant shall be added to the system meet the manufacturers specifications. Stored pressure-type units shall be checked for the required pressure. The cartridge of cartridge-operated units shall be weighed and replaced at intervals indicated by the manufacturer.

BID SHEET

The specific bid price for the materials and services to be rendered pursuant to the Scope of Work for which this bid is made are as follows:

No.	Site Description	Address	Hood Type	Install Date	Upgrade Date	Price Per Inspection	Contract Total (10 Inspections)
1	Inyo County Jail Kitchen	550 S. Clay St. Independence	ANSUL Hood (Double Tank)	1992	2009	\$320.00	\$3,200.00
2	Statham Hall (IMAAA Kitchen)	138 N. Jackson St. Lone Pine	ANSUL Hood (Single Tank)	1975	2009	\$250.00	\$2,500.00
3	Bishop Senior Center (IMAAA Kitchen)	506 Park Ave. Bishop	ANSUL Hood (Single Tank)	Mid-80s	2009	\$260.00	\$2,600.00
4	Bishop Airport Terminal Restaurant	703 N. Airport Rd. Bishop	ANSUL Hood (Double Tank)	2002	N/A	\$290.00	\$2,900.00

Note: This is a prevailing wage job.

BID TOTAL IN NUMBERS (Contract total for all sites)

\$ 11,200.00

BID TOTAL IN WORDS:

\$ Eleven thousand two hundred dollars.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed eleven thousand and two hundred Dollars (hereinafter referred to as "contract limit"). 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, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will 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. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will 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 four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by 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 California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, 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 or as otherwise may be required. 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, 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 County, upon execution of this Agreement, 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 County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from

receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for 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 County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of 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 County.

8. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than \$1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and 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 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 County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to 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 County.

11. DEFENSE AND INDEMNIFICATION.

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) 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, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which 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, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NONDISCRIMINATION.

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, national origin, ancestry, physical handicap, medical condition, marital status, age, 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. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

15. ASSIGNMENT.

This is an agreement for the services of Contractor. 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 County.

Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

16. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, 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 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 twenty-three (23) below.

18. CONFIDENTIALITY.

Contractor further agrees to comply with the 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 information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

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.

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 County to enter 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, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

23. AMENDMENT.

This Agreement may be 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, and attached to the original Agreement to maintain continuity.

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or 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 to, the respective parties as follows:

County of Inyo	
<u>Public Works Department</u>	Department
<u>168 N. Edwards St, P.O. Drawer Q</u>	Street
<u>Independence, CA 93526</u>	City and State

Contractor:	
<u>Blizzard Fire Protection</u>	Name
<u>P.O. Box 1450</u>	Street
<u>Mammoth Lakes, CA 93546</u>	City and State

25. 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.

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ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND BLIZZARD FIRE PROTECTION
FOR THE PROVISION OF KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**

TERM:

FROM: April 9, 2019 **TO:** Dec 31, 2023

SCHEDULE OF FEES:

See attached bid sheet

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND BLIZZARD FIRE PROTECTION
FOR THE PROVISION OF KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**

TERM:

FROM: April 9, 2019 **TO:** Dec 31, 2023

SEE ATTACHED INSURANCE PROVISIONS

Specifications 1
Insurance Requirements for Most Contracts
(Not for Professional Services or Construction Contracts)

Contractor shall procure and maintain for the duration of the contract insurance 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 the Contractor, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Verification of Coverage

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

COUNTY OF INYO BID TABULATION

Project Title & Bid No. Kitchen hood fire suppression system inspection service
CONTRACT #116

Bid Opening Date: March 13, 2009 **Location:** County Admin Center

	<i>BIDDER NAME</i>	<i>Base Bid</i>	<i>Bid Additive A</i>	<i>Bid Additive B</i>	<i>Bid Additive C</i>	<i>Total Base Bid and Additives</i>	<i>Bond</i>
1.	Blizzard Fire Protection	11,200.					
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Opened By: E. Bills 

Present: Jamie Sealhe

TRAVIS DEAN



**KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION
SERVICES
WINTER 2019**



NOTICE TO BIDDERS

This entire BID Package, which includes the following:

**Notice Inviting Bids,
Bid Proposal Forms,
And
County of Inyo Standard Contract No. 116**

Must be submitted in its entirety. Do not remove any pages.

Be sure to fully complete all forms and sign.

**BID RESPONSES DUE BY 3:30 PM
MARCH 13, 2019**

COUNTY OF INYO

NOTICE INVITING BIDS

NOTICE IS HEREBY GIVEN THAT INYO COUNTY IS SOLICITING BIDS FOR:

KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES

Sealed Bids will be received at the Clerk of the Board of Supervisors Office, 224 N Edwards St. P.O. Drawer N Independence, California 93526 until 3:30 p.m. March 13, 2019, at which time they will be publicly opened and read.

Bids must be in a **sealed** envelope, addressed to the Clerk of the Board of Supervisors, 224 N Edwards St. P.O. Drawer N Independence, California 93526. Indicate on the outside of the bid envelope "**KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**".

All bids must be signed with the firm's name and by a responsible officer or employee.

The period for which the specified Services are to be provided pursuant to this bid is from Contract Approval, through and including December 31, 2023.

Inyo County reserves the right to reject any or all bids, or to waive any minor informality in any bid, if it is deemed to be in the best interest of the County of Inyo.

Bid Packages, which include the Notice Inviting Bids, Bid Proposal Forms and Contract Forms, may be obtained from the Inyo County Public Works Department 168 N Edwards St. P.O. Drawer Q Independence, CA 93526 or call (760) 878-0201 and may be inspected at the above department.

Bid packages may also be downloaded from the County website at:

http://www.inyocounty.us/Bid_Packages.html. Please be aware that if you download the bid package from the county website, you are responsible for notifying the Public Works Department that you are a plan holder. Only plan holders known by the County will receive any addenda that are issued.

BID PROPOSAL FORM

TO: COUNTY OF INYO
Department of Public Works
168 N. Edwards Street
P.O. Drawer Q
Independence, CA 93526
(Herein called "County")

FROM: Blizzard Fire Protection
PO Box 1450
Mammoth Lakes, CA 93546
(Herein called "Bidder")

FOR: **KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**

In submitting this Bid, it is understood that:

1. **BID DEADLINE:**

Bids must be received no later than 3:30 p.m. March 13, 2019 by the Clerk of the Board of Supervisors, 224 N Edwards St. P.O. Drawer N Independence California, 93526 at which time they will be publicly opened and read.

2. **INCLUSION OF ALL COSTS:**

This Bid includes all costs for all labor (at prevailing wage rates), materials, tools, taxes, insurance, transportation and other related supplies and services to perform all services and provide all materials as required by, and in accordance with, the Bid Package and Contract Documents for the **KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**.

3. **PRE-BID MEETING:**

Potential bidders may request a walk-through of all affected facilities by contacting Maintenance Supervisor Chris Cox at 760-878-0230 or ccox@inyocounty.us.

4. **CONTRACT DOCUMENTS:**

The Notice Inviting Bids, this Bid Proposal Form, and the Agreement for the **KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES**, County of Inyo Standard Contract No. 116, shown in Exhibit A, and any documents incorporated therein, including Attachments A, B and C, are referred to collectively as the Contract Documents and shall constitute the contract

between the parties that will come into full force and effect upon acceptance, approval and execution by the Inyo County Board of Supervisors or its designee.

5. ACCEPTANCE:

The County reserves the right to reject any and all Bids. However, this Bid shall remain open and shall not be withdrawn for a period of at least sixty (60) days after the date set for its opening and shall remain open and valid thereafter until it is withdrawn by Bidder. The Bidder will execute and deliver the Agreement for the **KITCHEN HOOD FIRE SUPPRESSION SYSTEM INSPECTION SERVICES** County of Inyo Standard Contract No. 116, any certificates or other required proof of insurance, and any other required documents, to the County no later than fifteen (15) days after receipt of notification to Bidder of the award of that Contract.

Failure to bid all items on the Bid Sheet will render the bid incomplete and may result in the bid being rejected.

No Bid will be accepted wherein the price quoted is specified as a posted price with an escalator "UP" clause, whether or not such escalator clause has a "TOP" or maximum limit to which the price may advance.

The Contractor will be allowed no claim for anticipated profits, loss of profits, or for any damages of any sort because of any differences between the estimated amounts set forth in this bid package and actual amount of material ordered and delivered during the course of the contract.

6. BID PROTEST

In the event a dispute arises concerning the bid process prior to the award of the contract, the party wishing resolution of the dispute shall submit an appeal request in writing to the County Director of Purchasing. Bidder may appeal the recommended award or denial of award, provided the following stipulations are met:

1. Only a bidder who has actually submitted a Bid Proposal is eligible to submit an appeal request/bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest.
2. Appeal must be in writing. The appeal must contain a complete statement of the basis for the protest and all supporting documentation. Materials submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address and telephone number of the person representing the protesting bidder if different from the protesting bidder.
3. A copy of the protest and all supporting documents must also be transmitted by fax or by email, by or before Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

4. Must be submitted within ten (10) calendar days of the date of the recommended award or denial of award letters.
5. An appeal of a denial of award can only be brought on the following grounds:
 - a. Failure to follow the selection procedures and adhere to requirements specified in the Bid Package or any addenda or amendments.
 - b. There has been a violation of conflict of interest as provided by California Government Code Section 87100 et seq.
 - c. A violation of State or Federal law.
6. Appeals will not be accepted for any other reasons than those stated above. All appeals must be sent to:

Clint Quilter, County Administrative Officer
 County of Inyo
 Purchasing Department
 Independence, CA 93526

County's Purchasing Director shall make a decision concerning the appeal, and notify the Proposer making the appeal, within a reasonable timeframe prior to the tentatively scheduled date for awarding the contract. The decision of County's Purchasing Director shall be deemed final.

7. ADDENDA:

The Bidder acknowledges receipt of the following Addenda and has provided for all Addenda changes in this Bid: (Fill in Addendum numbers and dates Addenda have been received. If none have been received enter "NONE".)

NONE

WARNING: IF AN ADDENDUM OR ADDENDA HAVE BEEN ISSUED BY THE COUNTY AND NOT NOTED ABOVE AS BEING RECEIVED BY THE BIDDER, THIS BID MAY BE REJECTED.

8. BIDDER'S BUSINESS INFORMATION:

IMPORTANT NOTICE: If Bidder or other interested person is a corporation, state legal name of corporation, and also the names of the president, secretary, treasurer and chief executive officer/manager thereof. If Bidder is a partnership, joint venture, limited liability company or other business entity, state the true name of the firm, and also the names of all partners, joint ventures, managing members or other entities or parties having authority to act on behalf of the entity, such as officers, owners or directors. If Bidder or other interested person is an individual, state your first, middle and last names in full.

Bidder provides the following information concerning Bidder's business:

Bidder's Name: Blizzard Fire Protection Owner: Alexander Terrell, Ops.Mngr.: Michele Kinney

California Contractor's License No. : Type A1077 Extinguishing Systems, Servicing and Testing

Address: PO Box 1450
Mammoth Lakes, California Zip 93546

(The above address will be used to send notice of acceptance or request for additional information.)

Telephone 760-934-4455 EXT. 2

Type of Business (check one):

Individual (), Partnership (), Joint Venture (), Corporation (✓), Limited Liability Company (), Other Specify:

Owners, Officers, Partners, or other Authorized Representatives:

THE UNDERSIGNED HEREBY DECLARES UNDER PENALTY OF PERJURY ACCORDING TO THE LAWS OF THE STATE OF CALIFORNIA, THAT THEY ARE THE INDIVIDUAL, MANAGING PARTNER, CORPORATE OFFICER, OR OTHER REPRESENTATIVE, DULY AUTHORIZED BY LAW TO MAKE THIS BID ON BEHALF OF BIDDER ACCORDING TO ALL OF THE TERMS AND CONDITIONS SET FORTH OR REFERENCED HEREIN.

 <i>(Signature of Authorized Person)</i>	<u>Owner</u> <i>(Title)</i>
<u>Alexander Terrell</u> <i>(Printed Name)</i>	<u>03/11/2019</u> <i>(Date)</i>

9. EXECUTION AND AGREEMENT

The undersigned Bidder hereby declares and agrees that:

(a) Blizzard Fire Protection (Name of Bidder or Bidder's Representative) has carefully examined the Specifications, Contract and other portions of this Bid Package and submits this Bid in accordance therewith.

(b) That if this Bid is accepted, the Bidder will enter into a written Contract with the County of Inyo, State of California.

(c) That if Contract is awarded to Bidder, Bidder will accept in full, as payment for the materials and/or services to be furnished pursuant to said Agreement, the amounts shown on Bid Sheet of this Bid Package. It is understood and agreed that the quantities set forth are but estimates and the unit price will apply to the actual work performed, whatever it may be.

(d) It is understood that no later than fifteen (15) days after award of the Contract to the Bidder, the Bidder shall return the signed Contract to the County.

Blizzard Fire Protection

(Company Name)



(By)

Alexander Terrell, Owner

(Print Name)

10. SCOPE OF WORK

The bidder must be a qualified State of California Contractor, with a valid "A" license issued by the Office of the State Fire Marshal or a C-16 license as issued by the State of California Contractors State Licensing Board.

The Scope of Work for this contract will include the following for each ANSUL Hood listed on the bid sheet:

- Inspection and testing of ANSUL R-102 Wet Chemical Fire Suppression systems in kitchen hoods every 6 months (per California 2016 Fire Code, Section 904 and California Code of Regulations, Title 19, Division 1, Chapter 5).
- Tests shall include a check of the detection system, alarms and releasing devices, including manual stations and other associated equipment.
- Fire suppression system units shall be weighed and the required amount of agent verified. If needed, retardant shall be added to the system meet the manufacturers specifications. Stored pressure-type units shall be checked for the required pressure. The cartridge of cartridge-operated units shall be weighed and replaced at intervals indicated by the manufacturer.

This bid was received on 3-13-19
2019
ATTEST: Clint Quilter, Administrative Officer
and Clerk of the Board Inyo County, California
By [Signature] Assistant



BID SHEET

The specific bid price for the materials and services to be rendered pursuant to the Scope of Work for which this bid is made are as follows:

No.	Site Description	Address	Hood Type	Install Date	Upgrade Date	Price Per Inspection	Contract Total (10 Inspections)
1	Inyo County Jail Kitchen	550 S. Clay St. Independence	ANSUL Hood (Double Tank)	1992	2009	\$320.00	\$3,200.00
2	Statham Hall (IMAAA Kitchen)	138 N. Jackson St. Lone Pine	ANSUL Hood (Single Tank)	1975	2009	\$250.00	\$2,500.00
3	Bishop Senior Center (IMAAA Kitchen)	506 Park Ave. Bishop	ANSUL Hood (Single Tank)	Mid-80s	2009	\$260.00	\$2,600.00
4	Bishop Airport Terminal Restaurant	703 N. Airport Rd. Bishop	ANSUL Hood (Double Tank)	2002	N/A	\$290.00	\$2,900.00

Note: This is a prevailing wage job.

BID TOTAL IN NUMBERS (Contract total for all sites)

\$ 11,200.00

BID TOTAL IN WORDS:

\$ Eleven thousand two hundred dollars.



AGENDA REQUEST FORM

BOARD OF SUPERVISORS

COUNTY OF INYO

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Schedule time for
 Closed Session
 Informational

For Clerk's Use Only:

AGENDA NUMBER

19

FROM: Public Works/Road Department

FOR THE BOARD MEETING OF: ~~MAR 28~~ April 9 2019

SUBJECT: Sole Source Declaration for the design of the Annex HVAC Retrofit Project

DEPARTMENTAL RECOMMENDATIONS:

The Public Works Department/Road Department requests the Board:

1. Declare Etchemendy Engineering, Inc. as a sole source provider for the design of the Annex HVAC Retrofit Project.
2. Approve the Contract between the County of Inyo and Etchemendy Engineering, Inc. of Reno, NV for Engineering Services for a lump sum amount of Eighty Thousand and fifty dollars (\$80,050).
3. Authorize the chairperson to execute the contract; contingent upon obtaining appropriate signatures.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Inyo County Public Works Department requires the services of a mechanical engineering consultant for the Annex HVAC Retrofit Project, the preliminary engineering for this project is part of the 18/19 Deferred Maintenance Budget. Additionally, a portion of the project, the Information Services Back-Up Cooling Project is budgeted in 18/19 Deferred Maintenance Budget. The remainder of the construction work will occur in the 19/20 Fiscal Year if included in the approved Deferred Maintenance list for that year.

In the fall of 2016, Public Works sought proposals for an evaluation of heating, ventilation and air conditioning (HVAC) system in the Courthouse Annex Building. Only one proposal was received after reaching out to several engineering firms. Etchemendy Engineering (EEI) was chosen, and in May 2017, the evaluation was completed.

Due to EEI's extensive knowledge of this system, Public Works believes it is in the best interest of the County to declare EEI a sole source provider for the required design work under IV Procurement of Services Section I.2.d) of the Inyo County Procurement Manual:

"Proposed contractor has a substantial investment that would have to be duplicated at the County's expense by another contractor entering the field."

The lump sum amount for this project is divided into four phases:

- Design – Information Services Back-Up Cooling (\$12,640)
- Construction Administration Services - Information Services Back-Up Cooling (\$3,160)
- Design – Annex HVAC Retrofit (\$51,400)
- Construction Administration Services – Annex HVAC Retrofit (\$12,850)

The construction administration phases will be billable at the completion of the construction phase.

ALTERNATIVES:

The Board could choose to deny the sole source request, and request that Public Works advertise a Request for Proposals. This is not recommended due to the additional costs to the County for another consultant to familiarize with the system.

OTHER AGENCY INVOLVEMENT:

The Inyo County Auditors Office
County Counsel
County Administrative Officer

FINANCING:

Budget Unit 011501 Deferred Maintenance, Object Code 5265 Professional Services. The Deferred Maintenance Budget included \$30,000 for the design work. To cover the additional costs, Public Works requested that the CAO approve the reallocation of \$33,551 from the South Street Flooring Project (which has been postponed) and \$7,000 remaining in the budget for the Jail Boiler Design Project. See attached memo with CAO approval.

The construction administration portions of this contract will be paid from the construction budgets of the respective projects. There is \$50,000 approved in the budget for the Information Services Back-Up Cooling project. The Annex HVAC Retrofit project will be requested in the 19/20 Fiscal Year; if the project is not approved then the construction administration charges would not be incurred.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)	Approved: <u>yes</u>	Date <u>3/13/19</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: <u>yes</u>	Date <u>3/14/19</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: <u>✓</u>	Date <u>3/19/19</u>

CAO/BUDGET OFFICER SIGNATURE:  Date: 3/19/19

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)  Date: 2019.03.19



County of Inyo

DEPARTMENT OF PUBLIC WORKS

168 N. Edwards Street, Independence, CA 93526

Main 760.878-.0201 Fax 760.878.2001

TO: Clint Quilter, CAO

FROM: Ashley Helms, Public Works

RE: Request to allocate excess funds in the 18/19 Deferred Maintenance Budget to the Annex Building HVAC Design

The approved 2018/19 Deferred Maintenance Budget includes \$30,000 for the re-design of Annex building HVAC system. This design contract was to include two separate projects – the server room cooling system (with a generator back-up), which is funded for construction in this fiscal year; and the upgrades to the remainder of the Annex building, which will occur next year.

The proposals received from Etchemendy Engineering are as follows:

IS Cooling Design	\$12,640
IS Cooling Construction Administration	\$3,160
Annex HVAC Retrofit Design	\$51,400
Annex HVAC Retrofit Construction Administration	\$12,850

The design portions total \$64,040, which exceeds the budget by \$34,040. To cover this shortfall the Public Works Department would like to reallocate \$33,551 from the South Street Flooring project (which has been postponed) and \$7,000 remaining in the Jail Boiler Design Project.

The construction administration portions of the contract will be funded by the construction budget of the respective projects; the consultant will not expend those funds until authorized by the County in writing.

If any further information is required, please contact Ashley Helms at 760-878-0200 or ahelms@inyocounty.us.

Thank you,

Ashley Helms
Engineering Assistant II
Inyo County Public Works

Approval:

Clint Quilter, CAO

**AGREEMENT BETWEEN COUNTY OF INYO
AND ETCEMENDY ENGINEERING, INC.,
FOR THE PROVISION OF DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the engineering and consulting services of Etchemendy Engineering, Inc. (hereinafter referred to as "Consultant"), 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.

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by Michael Errante, the Director of Public Works. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request 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 which are referred to in this Agreement and, as applicable, as set forth, in Attachment E, attached hereto and incorporated herein.

2. TERM.

The term of this Agreement shall be from April 9, 2019 to December 31, 2020, unless sooner terminated as provided below. In addition, County shall have the option to extend the Agreement for an additional one-year period as follows: from January 1, 2021 through December 31, 2021.

County shall exercise such option by giving written notice to Contractor at least thirty (30) days before the expiration of the Agreement, or an extension thereof.

The notice shall specify the period of the options being exercised. The option to extend shall be upon the same terms and conditions stated in this Agreement.

3. CONSIDERATION.

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall not reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement (see Attachment C).

C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant 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. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Eighty Thousand Fifty Dollars, (\$80,050.00) (initial term) and Zero Dollars \$0.00 (extension option) for a total of \$80,050.00 Dollars (hereinafter referred to as "contract limit"). 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. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant's when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.
- (4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. **WORK SCHEDULE.**

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A, which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County. Consultant shall not be held liable for delays or non-performance due to causes that are outside the control of Consultant, such as disasters that cannot be evaded through the exercise of due care.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in Attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Consultant 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, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, 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 Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, 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, Consultant'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, Consultant will convey possession and title to all such properties to County.

8. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

For the duration of this Agreement Consultant shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

9. STATUS OF CONSULTANT.

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant's, and not as agents, officers, or employees of

County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Consultant is to be considered an employee of County. It is understood by both Consultant and 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 Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

Consultant agrees to indemnify, including the cost to defend, entity and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the County; and does not apply to any passive negligence of the County unless caused at least in part by the Consultant.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Consultant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

11. RECORDS AND AUDIT.

A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which 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 Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Consultant, 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, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Consultant 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. Consultant 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.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Consultant thirty (30) days written notice of such intent to cancel. Consultant may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Consultant abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Consultant in default and terminate this Agreement upon five (5) days written notice to Consultant. Upon such termination by default, County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be 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 twenty-two (22) below.

17. CONFIDENTIALITY.

Consultant further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County. Any disclosure of confidential information by Consultant without the County's written consent is solely and exclusively the legal responsibility of Consultant in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Consultant 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.

19. POST AGREEMENT COVENANT.

Consultant 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, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any County, 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, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. 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.

21. FUNDING LIMITATION.

The ability of County to enter 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, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be 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, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or 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 to, the respective parties as follows:

County of Inyo:	
<u>Public Works</u>	Department
<u>P.O. Drawer Q</u>	Address
<u>Independence, CA 93526</u>	City and State

Consultant:	
<u>Etchemendy Engineering, Inc.</u>	Name
<u>10597 Double R Blvd, Suite 1</u>	Address
<u>Reno, Nevada 89521</u>	City and State

24. 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.

--oOo--

**AGREEMENT BETWEEN COUNTY OF INYO
AND ETCEMENDY ENGINEERING, INC.,
FOR THE PROVISION OF ENGINEERING AND CONSULTING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, _____.

COUNTY OF INYO

CONSULTANT

By: _____
Signature

By: _____
Signature

Print or Type Name

Print or Type Name

Dated: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

Grace Chuchla
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

s/CoCo/Contrats/Modified/EtchemendyEngineering

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO AND ETCEMENDY ENGINEERING, INC., FOR THE PROVISION OF DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES

TERM:

From: April 9, 2019 To: December 31, 2020

Extension Option: From January 1, 2021 through December 31, 2021

SCOPE OF WORK:

The Scope of Work covered by this contract, which includes the design of the Information Service Back-Up Cooling Project and the Annex Building HVAC Retrofit Project, shall be in general accordance with Etchemendy Engineering Inc.'s proposals entitled *Contract Proposal: Inyo County Annex Building HVAC Retrofit dated 03/11/2019* and *Contract Proposal: Inyo County Annex Building Server Room HVAC Replacement dated 01/07/2019*, which are included in this attachment.



10597 Double R Blvd, Suite 1
Reno, Nevada 89521
(775) 853-1131 – Fax (775) 852-2352

Contract Proposal

To: Clint Quilter,
Inyo County Public Works
PO Box Q
Independence, CA
Phone: (760) 973-6064

From: Brandon Etchemendy, PE
Principal

Project Information:

We understand this project to consist of the retrofit of the existing HVAC system at the Inyo County Annex Building in Independence, CA. With the exception of the chiller, the system is original to the building and is far past its expected lifespan. The system is comprised of an outdoor chiller plant, indoor boiler plant and 7 indoor air handlers throughout the building. There are two existing air handlers on the first floor. One serves office area and will be retrofitted as part of this project. The second conditions a server room, and adjacent storage rooms, and is being replaced under a separate scope. The remaining 5 air handlers are located on the second floor in the ceiling space and lack service access as currently installed. We propose replacing the entire system as the boiler and air handlers are far past their expected lifespan as the chiller utilizes a refrigerant who's production ceases in 2020. Electrical and structural designs will be provided as necessary for the retrofit.

Scope of Work:

Our scope of work will include: Up to 2 site visits for design purposes. Demolition drawings will be provided as necessary for the equipment replacement, electrical infrastructural and building architectural/structural changes. Calculations and detailed design drawings for the HVAC systems in accordance with above listed renovations. Structural/architectural designs of the renovation necessary for the proposed HVAC replacement system. Electrical designs of the renovation necessary for the proposed HVAC replacement system. The structural/architectural and electrical engineering designs will be completed by Tectonics Design Group and JP Engineering respectively. Model energy code calculations. Coordination with, and oversight of, other disciplines as required to produce construction documents suitable for use in competitive bidding. Attendance at local coordination meetings with other design professionals and the Owner. Construction administration services including in office submittal and rfi review and up to 3 site visits for job progress review. All other CA will be provided on a time and materials basis.

Excluded Items:

Third party Plan Review
Seismic Restraint Design
Water Usage Calculations

This proposal covers the work provided for above and does not include any modifications to the mechanical design. Any modifications based on equipment or owner changes once the original design is completed shall be covered under an additional contract.



10597 Double R Blvd, Suite 1
Reno, Nevada 89521
(775) 853-1131 – Fax (775) 852-2352

Contract Proposal

To: Clint Quilter,
Inyo County Public Works
PO Box Q
Independence, CA
Phone: (760) 973-6064

From: Brandon Etchemendy, PE
Principal

Project Information:

We understand this project to consist of the replacement of the existing HVAC serving the server room at the counties Annex Building in Independence, CA. The current system is aging and struggles to maintain temperature at times. The intent is to re-duct the existing 5 ton mini-split, and replace the outdoor condensing unit, for better conditioning of the space as well as replace the existing 7 ton air handler serving the IT Room and remainder of the lower floor attached to the server room. The mini-split will allow independent control of the various spaces on the lower floor while recovering the heat from the server room to heat other spaces in the winter. The HVAC system, at least a portion of the system, for the server room is to be backed up by an emergency generator. The generator will be designed as a part of this scope. The size of the generator, and the amount of server HVAC connected to it, will be determined based on the goals needed met for cooling in a power outage.

Scope of Work:

Our scope of work will include: An initial site visit. Calculations and detailed design drawings and CSI specifications for the HVAC systems, and generator, in accordance with the proposed equipment replacement. Our design scope includes those facilities within each building extending no more than 5' outside of the building line. Coordination with other disciplines along with the production of construction documents suitable for use in competitive bidding. The electrical engineering designs will be completed by JP Engineering. Attendance at coordination meetings with other design professionals and the Owner. Construction administration services including submittal and rfi review and up to 3 site visits for project progress review and punch lists. All other CA and site visits will be provided on a time and materials basis.

Excluded Items:

Third party Plan Review
Seismic Restraint Design
Water Usage Calculations
Energy model for LEED, or any other accreditation authority, requirements or submittal
LEED, or any other accreditation authority, documentation requirements or submittal

Fee Type: Flat Fee

Design	\$12,640
Construction Administration Services	\$3,160

This proposal covers the work provided for above and does not include any modifications to the mechanical design. Any modifications based on equipment or owner changes once the original design is completed shall be covered under an additional contract.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO AND ETCEMENDY ENGINEERING, INC., FOR THE PROVISION OF DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES

TERM:

From: April 9, 2019 To: December 31, 2020

Extension Option: From January 1, 2021 through December 31, 2021

SCHEDULE OF FEES:

Etchemendy Engineering, Inc.'s fee for the services described in Attachment A to the contract: Scope of Work shall be a lump sum fixed fee of Sixty Four Thousand Two Hundred and Fifty Dollars (\$64,250.00) for this project. This lump sum shall be divided into two phases as follows:

Design	\$12,400.00
Construction Administration Services	\$ 3,100.00
Design – Annex HVAC Retrofit	\$51,400.00
Construction Administration Services – Annex HVAC Retrofit	\$12,850.00

The total Design fee for each project is payable to the Consultant in the following increments:

30% Design Completion	50% fee payable
75% Design Completion	80% fee payable
100% Design Submittal	100% fee payable

The 30% Design Completion will include preliminary design drawings and description.

The 75% Design Completion will include preliminary plans, specifications and estimate of probable costs for the project.

The 100% Design Submittal will include the submittal of all plans, specifications and estimates to the County, in a form ready for bidding.

The lump sum total for Construction Administration Services for each project will not be billed by the Consultant until approved by the County at the end of the construction phase.

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND ETCEMENDY ENGINEERING, INC.,
FOR THE PROVISION OF DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES**

TERM:

From: April 9, 2019 To: December 31, 2020

Extension Option: From January 1, 2021 through December 31, 2021

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

There will be no compensation for Travel or Per Diem. Any and all costs of Travel and Per Diem are considered to be inclusive in the Lump Sum price, as described in the Schedule of Fees, Attachment B to the Contract.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
20

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Schedule time for
 Closed Session
 Informational

FROM: Public Works/ Road Department

FOR THE BOARD MEETING OF: APR 9 2019

SUBJECT: Request authorization to purchase 120 linear feet of corrugated metal pipe culvert and the associated hardware to replace existing culvert on Poleta Road.

DEPARTMENTAL RECOMMENDATIONS:

Request your Board approve the purchase of 120 linear feet of corrugated metal pipe culvert and the associated hardware from Western Nevada Supply of Bishop, CA in an amount not to exceed \$11,278.90.

SUMMARY DISCUSSION:

The Road Department solicited bids in March, 2019 for materials needed to replace an existing culvert located on Poleta Road in Bishop. Bids were opened on March 25, 2019 and three bids were received:

- | | |
|---|-------------|
| 1. Western Nevada Supply of Bishop, CA | \$11,278.90 |
| 2. Brown's Supply of Bishop, CA | \$16,825.91 |
| 3. Kelly Pipe Co., LLC of Bakersfield, CA | No Bid |

Kelly Pipe Co., LLC of Bakersfield mailed in a bid package, but wrote in that they are unable to bid the specified materials and thanked the County for the opportunity. The Road Department has reviewed the remaining two bids and found them to be responsive.

The Road Department is recommending your Board authorize the purchase of 120 linear feet of corrugated metal pipe culvert and associated hardware from Western Nevada Supply, to be delivered to the Bishop road yard. The total expense, including delivery and taxes, is not to exceed \$11,278.90.

ALTERNATIVES: Your Board could choose not to approve this purchase. This is not recommended, as the material is needed to replace an existing failing culvert on Poleta Road. If the purchase is not approved, the Road Department would need to re-advertise which would delay the replacement and could result in less favorable bids.

OTHER AGENCY INVOLVEMENT:

County Counsel for review of agenda request and approval of purchase order agreement.
 Auditor's Office for payment of invoices.

FINANCING:

The funding for this replacement of existing culvert materials will be paid from the Road Department Budget 034600, Object Code 5199 Maintenance of Structures - Materials.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)	Approved: <u>yes</u>	Date <u>3/28/19</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: <u>yes</u>	Date <u>3/29/2019</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: <u>N/A</u>	Date <u> </u>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

[Signature] Date: 2019.04.01

COUNTY OF INYO BID TABULATION

Project Title & Bid No. 2019-05 CMP Culvert Pipe

Bid Opening Date: 3/25/19 Location: County Admin Center

	BIDDER NAME	Base Bid	Bid Additive A	Bid Additive B	Bid Additive C	Total Base Bid and Additives	Bond
1.	Brown's Supply	\$16,825.91					
2.	Western NV Supply	\$11,278.90					
3.	Kelly Pipe Co, LLC	No Bid					
4.							
5.							
6.							
7.							
8.							
9.							
10.							

Opened By: Darcy Ellis

Present: Trevor Taylor



COUNTY OF INYO (760) 878-0293

MATERIAL OR SERVICES
TO BE DELIVERED TO:

INYO COUNTY ROAD DEPARTMENT
3236 WEST LINE STREET
BISHOP, CA 93514

RETURN BIDS TO:

INYO COUNTY BOARD CLERK
COUNTY ADMINISTRATIVE CENTER
P.O. BOX N
224 NORTH EDWARDS STREET
INDEPENDENCE, CA 93526

BID OPENING: DATE: Monday, March 25, 2019 TIME: 3:30 P.M. (PDT)

Prices quoted FOB DESTINATION UNLESS OTHERWISE STATED.
MAKE YOUR BID OR QUOTATIONS IN THE SPACE PROVIDED ON THE ATTACHED SHEETS.
IMPORTANT: Bid must be sealed with bid number as indicated above on the outside of the envelope.
Read the Instructions and Conditions before making your Bid or Quotation.

INSTRUCTIONS & CONDITIONS

1. All prices and notations must be typewritten or written in ink. No erasures permitted. Mistakes may be crossed out and corrections made adjacent and must be initialed in ink by person signing quotation.
2. State brand or make on each item. If quoting an article exactly as specified, the words "or equal" must be stricken out by the bidder. If quoting on other than make, model or brand specified, the manufacturer's name and the catalogue number must be given, or descriptive cut and information attached to the quotations.
3. Quote on each item separately. Prices should be stated in units specified herein.
4. Each quotation must be in a separate sealed envelope with bid number, on outside, and must be submitted to the Inyo County Board Clerk, not later than the hour and day specified hereon, at which time it will be publicly opened and read. A properly addressed and bid numbered envelope, without postage, is included for your convenience.
5. Time of delivery is a part of the consideration and must be stated in definite terms, and must be adhered to. If time varies on different items, the bidder shall so state in the column provided, opposite each item.
6. Terms of less than 10 days for cash discount will be considered as net.
7. All quotations must be signed with the Firm's name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
8. No charge for packing, drayage, or for any other purpose will be allowed over and above the prices quoted on this sheet.
9. The right is reserved, unless otherwise stated, to accept or reject any or all quotations, or any part thereof, either separately or as a whole, or, to waive any informality in a bid.
10. Samples of items, when required, must be furnished free of expense to the County of Inyo and if not destroyed by tests, will upon request be returned at the bidders expense.
11. In case of default by the vendor, the County of Inyo may procure the articles or service from other sources.
12. Cost of transportation, handling, and/or inspection on deliveries or offers for delivery, which do not meet the specifications will be for the account of the vendor.
13. The vendor shall hold the County of Inyo, its officers, agents, servants and employees, harmless from liability of any nature or kind on account of use of any copyrighted, or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used under this quotation.

- 14. The vendor will not be held liable for failure or delay in fulfillment if hindered or prevented by fire, strikes, or Acts of God.
- 15. Quotations are subject to acceptance at any time within 30 days after opening same, unless otherwise stipulated.
- 16. Verify your quotations before submission as they cannot be withdrawn, or corrected, after being opened.
- 17. Return this sheet whether or not you quote a price. If you do not quote, state your reason, otherwise your name may be removed from the mailing list.
- 18. Amounts paid for transportation of property to the County of Inyo are exempt from Federal Transportation Tax. An exemption certificate is not required where the shipping papers show the consignee as County of Inyo, as such papers may be accepted by the carrier as proof of the exempt character of the equipment.
- 19. **There is a contracting preference of 5% for small business enterprises and 8% for local businesses available for this Request for Proposals (bids). To be eligible for the preferences, a small business enterprise must submit proof of state registration as a SBE with its bid and a local business must provide certification that it is a local business as defined by Inyo County Code §6.06.020 (b) with its bid.**

THE FOLLOWING MUST BE FILLED IN BY THE BIDDER IN SUBMITTING HIS BID:

DATED AT Bishop, Ca (CITY & STATE)

March 12, 2019

CASH DISCOUNT TERMS _____

To the County of Inyo: We (I) hereby agree to furnish the articles and/or services, at the prices and terms stated subject to the instructions and conditions set forth in this bid.

NAME OF COMPANY Western Nevada Supply

NAME OF COMPANY REPRESENTATIVE (PRINTED) Craig Frechette

COMPANY REPRESENTATIVE SIGNATURE 

STREET ADDRESS 515 South Main St

CITY AND STATE Bishop, Ca

PHONE NUMBER 760-~~826~~ 873-1719

FAX NUMBER _____



This bid was received on March 18, 2019 @ 1:31 pm
ATTEST: Clint Quilter, Administrative Officer and Clerk of the Board Inyo County, California
By [Signature] Assistant

CMP Culvert Pipe

- a. 120 LF - 5' (60") diameter of 'squash' CMP galvanized culvert pipe, 14 gage
- b. 6 each - Galvanized dimple arch coupling bands for 5' (60") diameter pipe-arch culverts with associated hardware

For questions or comments regarding specifications please contact Trevor Taylor at ttaylor@inyocounty.us or (760)-878-0347

NOTE: YOUR NAME & ADDRESS (NOT HANDWRITTEN) MUST APPEAR ON THE ENVELOPE WHEN RETURNING YOUR BID. ENVELOPES WITHOUT A RETURN ADDRESS WILL BE DISPOSED OF WITHOUT BEING OPENED.

Subtotal	<u>10,467.66</u>
Sales Tax (7.75%)	<u>811.24</u>
Shipping Charge	<u>0</u>
Total	<u>11,278.90</u>

Delivery will be made in 20 days after receipt of order.

Bid prices will remain valid and in effect through May 12/2019

Indicate any exception to the bid:

ABC

Elko
775.738.9811
S. Lake Tahoe
530.541.1884

Carson City
775.882.0900
Bishop
760.873.7119

Truckee
530.582.5009
Susanville
530.251.5800

Winnemucca
775.825.5600

Corporate
950 S. Rock Blvd. • Sparks, NV 89431
tel 775.359.5800 • fax 775.359.4649

* * Q U O T A T I O N * *

TO: INYO COUNTY ROAD DEPT.
P.O. BOX DRAWER Q
INDEPENDENCE, CA 93526

DATE: 02/04/19 NO. 816525
EFFECTIVE 02/04/19 TO 02/04/19
JOB:
TERMS: NET 30
FOB: ffa
PREP. BY CRAIG FRECHETTE

WE ARE PLEASED TO QUOTE YOU ON THE FOLLOWING MATERIAL
*** SALES TAX NOT INCLUDED ***

PAGE: 1

Qty	Part Number	Description	Price...	Extended
1	====>			
120	DZNS273576	66 X 51 X 20FT ARCH CULVERT 14ga	82.78	9933.60
6	WZNS352164	66 x 51 arch cplg	89.01	534.06
			1 TOTAL	10467.66
		QUOTATION TOTALS		10467.66

* * * SALES TAX NOT INCLUDED * * *

THE MATERIAL LISTED ABOVE IS QUOTED PER THE PLANS AND SPECS
PROVIDED TO WNS, AND WHETHER SPECIFIED OR NOT WILL BE SUBJECT
TO THE ENGINEER'S APPROVAL. ALL SALES ARE SUBJECT TO TAX.

Tax 811.24


APPROPRIATION CHANGE REQUEST FORM

DEPARTMENT Road Department DATE 03/29/19

1.
 BUDGET UNIT: 034600 DEPT Road Department
 FROM: 5265 AMOUNT: \$12,000 TO: 5199 AMOUNT: \$12,000
 _____ \$ _____ \$
 _____ \$ _____ \$
 _____ \$ _____ \$
 TOTAL \$12,000 TOTAL \$12,000

JUSTIFICATION (Attach memo if necessary) DEPARTMENT HEAD

For the purchase of Culverts for Poleta

BY: 

2. _____ Sufficient Funds Available _____ Insufficient Funds
 AUDITOR-CONTROLLER
 BY: _____

3. _____ Board Action Required _____ 4/5's Vote Required
 _____ Board Action not Required
 _____ Approve as Required _____ Approve as Revised _____ Disapprove

REMARKS: COUNTY ADMINISTRATOR
BY: _____

4. ATTEST: _____ DATE: _____
Clerk of the Board of Supervisors



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerks Use Only
AGENDA NUMBER
21

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Amendment one with CALOES for Radio Maintenance

DEPARTMENTAL RECOMMENDATION:

Request the Board

- A. Amend existing schedule of fees with CALOES to increase the monthly payment amount and extend the term of service.
- B. Approve the amendment between the County of Inyo and CALOES for the provision of radio maintenance, extending the term for 3 years, beginning July 1, 2016 through June 30, 2022, at the rate of \$21,667 for FY 19/20, \$21,667 for FY 20/21 and \$21,666 for FY 21/22 increasing the not to exceed amount by \$65,000 for a total not to exceed amount of \$125,000
- C. Authorize the Sheriff or designee to sign the amendment, contingent upon approval of the 2019/2020 and future budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The State of California has been handling our maintenance and repair of our radio repeater sites for some time, under various agreements. These repeater sites are imperative to the Sheriff's office for radio communication.

ALTERNATIVES:

Deny this amendment and seek other maintenance suppliers. This is not recommended as it is critical to have the repeater working.



OTHER AGENCY INVOLVEMENT:

County Counsel
Auditor's office

FINANCING:

The cost of this agreement is included in the 2018-2019 Sheriffs' Department requested budget 022700, Object Code 5171 Maintenance of Equipment, and will be included in future budgets, to be encumbered annually.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>3/22/19</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>3/27/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)



Date: 3/28/19

STATE OF CALIFORNIA
STANDARD AGREEMENT AMENDMENT
 STD. 213 A (Rev 6/03)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED _____ Pages

AGREEMENT NUMBER 4105-6	AMENDMENT NUMBER 1
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME

Inyo County Sheriff's Office

CONTRACTOR'S NAME

California Governor's Office of Emergency Services (Cal OES)

2. The term of this July 1, 2016, or upon DGS through June 30, 2022

Agreement is approval, whichever is later

3. The maximum amount of this \$125,000.00

Agreement after this amendment is: One Hundred Twenty Five Thousand Dollars and Zero Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

EXHIBIT A Statement of Work 3, Contract Amount: Adding funds in the amount of \$65,000 broken down as follows:

Maximum Amount: \$60,000
 Additional Funds: \$65,000
 Amended Maximum Amount: \$125,000
 FY 19/20 - \$21,667.00, FY 20/21 - \$21,667.00, FY 21/22 - \$21,666.00

EXHIBIT A Statement of Work 6, Term of Agreement: Changing terms as follows:

Current Term: 07/01/2016 - 06/30/2019
 New Term: 07/01/2016 - 06/30/2022

EXHIBIT A Statement of Work 7, Notices: Contacts have been updated.



EXHIBIT B Budget Detail and Payment Provisions
 (This Exhibit to be replaced in its entirety)

EXHIBIT B-1 Service Descriptions & Rates
 (This Exhibit to be replaced in its entirety)

EXHIBIT C General Terms and Conditions
 (This Exhibit to be replaced in its entirety).

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) California Governor's Office of Emergency Services (Cal OES)		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Tabitha Stout, Assistant Director of Administrative Services		
ADDRESS 3650 Schriever Avenue Mather, CA 95655		
AGENCY		
AGENCY NAME Inyo County Sheriff's Office		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Jeff Hollowell, Undersheriff		
ADDRESS PO Drawer S, 550 S. Clay Street Independence, CA 93526		

Exempt per:

**EXHIBIT A
STATEMENT OF WORK**

Radio Maintenance Agreement

1. CONTRACT DESCRIPTION

This is an agreement between California Governor's Office of Emergency Services, Public Safety Communications, hereinafter called the State, and Inyo County Sheriff's Office, hereinafter called the Agency.

2. PURPOSE & SCOPE

The Agency requests to have the State provide radio maintenance and repair services to the Agency's radio equipment under State Government Code Section 14931 to render service to federal/local political subdivisions. The equipment listed on the attached marked "Exhibit D" will be made a part of this agreement by reference.

3. CONTRACT AMOUNT

Agreement will be for a total of ~~\$60,000.00~~ \$125,000.00 broken down as follows:

- FY 16/17: \$20,000.00
- FY 17/18: \$20,000.00
- FY 18/19: \$20,000.00
- FY 19/20: \$21,667.00
- FY 20/21: \$21,667.00
- FY 21/22: \$21,666.00

4. THE STATE'S RESPONSIBILITIES

- a. The State agrees to provide radio maintenance and repair service to Agency on a mutually agreeable schedule. In the event of a conflict between State and Agency service requirements, service to State equipment will have priority;
 - b. The State agrees to perform emergency radio repair services 24/7/365 to Agency equipment listed in Exhibit D;
 - c. The State will issue amendments to this agreement each Fiscal Year to reflect that specific years' Service Descriptions & Rates (Exhibit B-1) as soon as they are published and available;
 - d. The State agrees preventive maintenance will be performed annually or on an agreed upon schedule. Agency will be notified in advance prior to turning off any operation equipment as necessary to perform maintenance and or repairs. State will replace parts as necessary,
-

and bill costs to the Agency;

- e. State will perform equipment repairs required due to accidents or acts of nature, equipment modification, installation, and other work not within the category of normal maintenance upon request of Agency, State will work with Agency on pricing of repair;
- f. State will provide radio system engineering services to Agency. Engineering services include systems and equipment design engineering, specification preparation and review, and equipment evaluation and testing. Engineering services will be provided on an individual basis upon written request by Agency. A written estimate of costs for such engineering service will be provided by State to Agency prior to proceeding with any work.

5. THE AGENCY'S RESPONSIBILITIES

- a. Agency agrees to provide to State an accounting of all radio equipment to be maintained and serviced along with instruction manuals and schematics to its system equipment. Exhibit D is required annually for recurring maintenance of Agency equipment.
- b. Agency agrees to be responsible for establishing a method for verifying charges made and invoiced by State;
- c. Agency agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Agency in the performance on this agreement.

6. TERM OF AGREEMENT

The term of this agreement will be 7/01/2016 through ~~6/30/2019~~ 06/30/2022.

7. NOTICES

All notices required by or relating to this Agreement shall be in writing and shall be sent to the parties of this Agreement at their address as set below unless changed from time to time, in which event each party shall notify the other in writing, and all such notices shall be deemed duly given if deposited, postage prepaid, in the United States mail and directed to the address listed on the following page:

The technical representative during the term of this Agreement will be:

State Agency	Agency
California Governor's Office of Emergency Services – Public Safety Communications	Name: Inyo County Sheriff's Office
Attn: Joni Hamblin Jacob Gomez	Attn: Janis Odum Jeff Hollowell
Phone: (916) 657-9173 (916) 657-9695	Phone: (760) 878-0326 (760) 878-0327 Fax: (760) 878-0389 (760) 878-0389
E-mail: Joni.Hamblin@caloes.ca.gov Jacob.Gomez@caloes.ca.gov	Email: Jodum@inyocounty.us jhollowell@inyocounty.us

Contract inquiries should be addressed to:

State Agency	Agency
California Governor's Office of Emergency Services – Public Safety Communications	Name: Inyo County Sheriff Department
Attn: Nicole Finch Jodi Lopez	Attn: Jeff Hollowell
Address: 3650 Schriever Avenue Mather, CA 95655	Address: P.O. Drawer S 550 S. Clay Street, Independence, CA 93526
Phone: (916) 845-8164 (916) 845-8307	Phone: (760) 878-0327
Fax: (916) 845-8303	Fax : (760) 878-0389
E-mail: Nicole.Adams@caloes.ca.gov Jodi.Lopez@caloes.ca.gov	E-mail: jhollowell@inyocounty.us

8. AMENDMENTS

Consistent with the terms and conditions of the original solicitation, and upon mutual consent, the California Governor's Office of Emergency Services and the Contractor may execute amendments to this Agreement. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and agreed upon by both parties and approved, as required. No verbal understanding or agreement not incorporated into the Agreement is binding on any of the parties.

9. TERMINATION PROVISIONS

The State may exercise its option to terminate this Agreement at any time with 30 calendar days prior written notice. If at such time the Agreement terminates, the State and Agency will mutually agree upon any pro-rated monthly reimbursement cost due to the State for services rendered.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. Costs for hourly maintenance services to be provided by the State shall be fully reimbursed by the Agency at an hourly rate. The Agency agrees to pay to the State, upon receipt of an invoice, the State's current Fiscal Year rate per hour for radio maintenance and engineering services. Travel to and from site of service will be at the above hourly rate. Emergency overtime calls for repair services after normal STATE working hours and on official STATE holidays will be at the Emergency hourly rate with a minimum four-hour charge. Parts necessary to repair the Agency's equipment will be billed separately from hourly services at the State's cost to procure the parts. Invoices will be presented monthly as necessary. The State will invoice the Agency on a monthly basis in arrears for actual work performed.
 2. Yearly costs for Annual Maintenance Service Program (AMSP) are based on the Agency's three-year average of repair hours for equipment covered by the program. AMSP costs include travel, emergency overtime, and parts necessary for repair of the Agency's equipment. The Agency will be billed one-twelfth of the yearly cost each month.
 3. The Agency is required to schedule invoices for payment to State no later than 15 days after receipt of invoice. If errors are found in the invoice or the Agency disputes invoice charges or services rendered, the State is to be notified immediately. Partial payment of an invoice without the State's approval is not allowed. Failure to comply with the State's payment policy as outlined above may result in cancellation of this agreement.
 4. The State reserves the right to review the hourly rate on July 1 of each year, and will be allowed to increase or decrease the rate, as a result of the review, throughout the term of the agreement.
 5. The State will provide their Service Descriptions and Rates sheet and AMSP costs at the beginning of each Fiscal Year after rates are determined. Exhibit B-1 provides the Fiscal Year 2018/19 Service Descriptions and Rates sheet.
-

EXHIBIT B-1
SERVICE DESCRIPTIONS & RATES

Office of Emergency Services
Public Safety Communications

Service Descriptions

FY 2018-19

Project Services

Charges for specific projects performed by PSC. Projects may include project management; engineering, planning and design for new or existing public safety communications systems, towers and antennas, vehicle or hand-held radios; site and coverage surveys, FCC licensing and frequency coordination, technical specification preparation, equipment evaluation/testing; rebuilding communications hardware/software; equipment installation, modification or relocation; and programming radio equipment. Charges include labor and travel for engineers, technicians, project managers and technical staff, and costs for purchasing equipment and materials, or contracting for services.

Engineer \$171.00 per hour
Project Mgmt./Technical
Staff \$154.00 per hour
Technician \$144.00 per hour

System Assistance/Consulting

Charges for planning, consulting and assisting agencies in the development of specific communication programs or projects. Charges include labor for engineers, project managers and technical staff.

Engineer \$171.00 per hour
Project Mgmt./Technical
Staff \$154.00 per hour

Microwave Services

Charges for Microwave Transmission Service (voice circuits), Public Safety Switching Network Service (green phone), and Digital Circuit Service (digital circuits). Charges are based on the type of circuit and the number of circuits used. In addition, both voice and digital circuits are charged mileage between relay points and the respective service points, and have a charge for each terminal point (customer interface).

Estimates available upon
request

Annual Maintenance Services

Charges to clients for repair and maintenance of communications equipment covered by the program, including travel, emergency callout, and replacement parts

Fixed rate based on 3-year
average of Agency repair &
maintenance hours.

Equipment Repair, Maintenance and Installation Services

Technician labor and travel charges for equipment that is not covered by annual maintenance services. Call-back for emergency repairs or troubleshooting after normal working hours, weekends and holidays has a minimum four-hour charge per Department of Personnel Administration Rule 599.708. Repair parts are not included and are charged separately. \$144.00 per hour

California Multiple Agency Radio System (CMARS)

Charges for use of a statewide network of mobile relay stations operating in the 800 MHz public safety radio spectrum. The system provides coverage along major traffic arteries throughout California and within densely populated areas such as Sacramento, San Francisco, Los Angeles and San Diego. \$16.50 per radio per month

Contracted Mobile Radio Equipment Installation/Removal Services

Charges for installation and/or removal of mobile radios and related equipment under contracts administered by OES/PSC. PSC approval is required to use contracted services and agencies are charged the contractor's flat rate based on the type of equipment. Contracts also include a flat rate for travel based on mileage and an hourly rate for non-standard installations/removals or special equipment. Estimates available upon request

PSC Mobile Radio Equipment Installation/Removal Services

Charges for installation and/or removal of mobile radios and related equipment by PSC technicians at a flat rate based on type of equipment. Travel has a flat rate based on mileage, and there is an hourly rate for non-standard installations/removals or special equipment. Estimates available upon request

Vault Services

Lease/rent charges to install and operate radio communications and associated equipment in a radio vault controlled by OES/PSC. Estimates available upon request

Equipment Storage Services

Charges for the storage of an agency's radio communications equipment, parts or materials in PSC's warehouse when items have been stored more than two years and there is not an active telecommunications project underway. Rates are based on cubic feet or palletized storage. Estimates available upon request

For additional information, contact Public Safety Communications at (916) 657-9405.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

The General Terms and Conditions (GTCs) 04/2017 are hereby incorporated by reference and can be accessed by visiting the following link:

Non-IT Services:

<https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER 4105-6
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

AGENCY'S NAME

Inyo County Sheriff's Office

CONTRACTOR'S NAME

California Governor's Office of Emergency Services (Cal OES)

2. The term of this July 1st, 2016 through June 30th, 2019

Agreement is:

3. The Maximum amount of \$60,000.00
 Agreement is: Sixty Thousand Dollars

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Statement of Work	3 Pages
Exhibit B – Budget Detail and Payment Provisions	1 Page
Exhibit B-1 – Service Descriptions & Rates	1 Page
Exhibit C – General Terms and Conditions – Interagency Agreements (GIA-610)	1 Page
Exhibit D – Equipment List	3 Pages

Items shown with an Asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

California Governor's Office of Emergency Services (Cal OES)

BY (Authorized Signature)

DATE SIGNED(Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

Rick Stolz, Assistant Director, Admin. Services

ADDRESS

3650 Schriever Avenue
 Mather, CA 95655

Agency

AGENCY NAME

Inyo County Sheriff's Office

BY (Authorized Signature)

DATE SIGNED(Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

Jeff Hollowell, Undersheriff

ADDRESS

PO Drawer S
 555 S. Clay Street
 Independence, CA 93526

California Department of General Services Use Only

Exempt per:

**EXHIBIT A
STATEMENT OF WORK**

Radio Maintenance Agreement

1. CONTRACT DESCRIPTION

This is an agreement between California Governor's Office of Emergency Services, Public Safety Communications, hereinafter called the State, and Inyo County Sheriff's Office, hereinafter called the Agency.

2. PURPOSE & SCOPE

The Agency requests to have the State provide radio maintenance and repair services to the Agency's radio equipment under State Government Code Section 14931 to render service to federal/local political subdivisions. The equipment listed on the attached marked "Exhibit D" will be made a part of this agreement by reference.

3. CONTRACT AMOUNT

Agreement will be for a total of \$60,000.00 broken down as follows:

- FY 16/17: \$20,000.00
- FY 17/18: \$20,000.00
- FY 18/19: \$20,000.00

4. THE STATE'S RESPONSIBILITIES

- a. The State agrees to provide radio maintenance and repair service to Agency on a mutually agreeable schedule. In the event of a conflict between State and Agency service requirements, service to State equipment will have priority;
 - b. The State agrees to perform emergency radio repair services 24/7/365 to Agency equipment listed in Exhibit D;
 - c. The State will issue amendments to this agreement each Fiscal Year to reflect that specific years' Service Descriptions & Rates (Exhibit B-1) as soon as they are published and available;
 - d. The State agrees preventive maintenance will be performed annually or on an agreed upon schedule. Agency will be notified in advance prior to turning off any operation equipment as necessary to perform maintenance and or
-

repairs. State will replace parts as necessary, and bill costs to the Agency;

- e. State will perform equipment repairs required due to accidents or acts of nature, equipment modification, installation, and other work not within the category of normal maintenance upon request of Agency, State will work with Agency on pricing of repair;
- f. State will provide radio system engineering services to Agency. Engineering services include systems and equipment design engineering, specification preparation and review, and equipment evaluation and testing. Engineering services will be provided on an individual basis upon written request by Agency. A written estimate of costs for such engineering service will be provided by State to Agency prior to proceeding with any work.

5. THE AGENCY'S RESPONSIBILITIES

- a. Agency agrees to provide to State an accounting of all radio equipment to be maintained and serviced along with instruction manuals and schematics to its system equipment. Exhibit D is required annually for recurring maintenance of Agency equipment.
- b. Agency agrees to be responsible for establishing a method for verifying charges made and invoiced by State;
- c. Agency agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Agency in the performance on this agreement.

6. TERM OF AGREEMENT

The term of this agreement will be 7/01/2016 through 6/30/2019.

7. NOTICES

All notices required by or relating to this Agreement shall be in writing and shall be sent to the parties of this Agreement at their address as set below unless changed from time to time, in which event each party shall notify the other in writing, and all such notices shall be deemed duly given if deposited, postage prepaid, in the United States mail and directed to the address listed on the following page:

The technical representative during the term of this Agreement will be:

State Agency	Agency
California Governor's Office of Emergency Services – Public Safety Communications	Inyo County Sheriff's Office
Attn: Joni Hamblin	Name: Janis Odum
Phone: (916) 657-9173	Phone: (760) 878-0326 Fax: (760) 878-0389
E-mail: Joni.Hamblin@caloes.ca.gov	Email: Jodum@inyocounty.us

Contract inquiries should be addressed to:

State Agency	Agency
California Governor's Office of Emergency Services – Public Safety Communications	Company Name: Inyo County Sheriff Department
Attn: Nicole Finch	Attn: Jeff Hollowell
Address: 3650 Schriever Avenue Mather, CA 95655	Address : P.O. Drawer S 550 S. Clay Street, Independence, CA 93526
Phone: (916) 845-8164	Phone: (760) 878-0327
Fax: (916) 845-8303	(760) 878-0389
E-mail: Nicole.Adams@caloes.ca.gov	E-mail: jhallowell@inyocounty.us

8. AMENDMENTS

Consistent with the terms and conditions of the original solicitation, and upon mutual consent, the California Governor's Office of Emergency Services and the Contractor may execute amendments to this Agreement. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and agreed upon by both parties and approved, as required. No verbal understanding or agreement not incorporated into the Agreement is binding on any of the parties.

9. TERMINATION PROVISIONS

The State may exercise its option to terminate this Agreement at any time with 30 calendar days prior written notice. If at such time the Agreement terminates, the State and Agency will mutually agree upon any pro-rated monthly reimbursement cost due to the State for services rendered.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. Costs for maintenance services to be provided by STATE shall be fully reimbursed by AGENCY at an hourly rate. AGENCY agrees to pay to the STATE, upon receipt of an invoice, STATE's current Fiscal Year rate per hour for radio maintenance and engineering services; AGENCY will pay for services as they are actually rendered. Travel to and from site of service will be at the above hourly rate. Emergency overtime calls for repair services after normal STATE working hours and on official STATE holidays will be at the above hourly rate with a minimum four-hour charge. Parts necessary to repair AGENCY equipment will be billed separately from hourly services at the STATE's cost to procure the parts. Invoices will be presented monthly as necessary.
 2. The STATE will invoice AGENCY on a monthly basis in arrears for actual work performed. AGENCY is required to schedule invoices for payment to the STATE no later than 15 days after receipt of invoice. If errors are found in the invoice or AGENCY disputes invoice charges or services rendered, STATE is to be notified immediately. Partial payment of an invoice without STATE's approval is not allowed. Failure to comply with the STATE's payment policy as outlined above may result in cancellation of this agreement.
 3. The State reserves the right to review the hourly rate on July 1 of each year, and will be allowed to increase or decrease the rate, as a result of the review, throughout the term of the agreement.
 4. The State will provide their Service Descriptions and Rates sheet at the beginning of each Fiscal Year after rates are determined. Exhibit B-1 provides the Fiscal Year 2015/16 Service Descriptions and Rates sheet.
-

EXHIBIT B-1
SERVICE DESCRIPTIONS & RATES

California Governor's Office of Emergency Services
Public Safety Communications

Service Descriptions & Rates

FY 2015-16

Radio Engineering Services:

\$145.00 per hour

Radio engineering services associated with a new or existing Public Safety and Public Service communication system includes system planning and design, site and coverage surveys, FCC licensing and frequency coordination, technical specification preparation, equipment evaluation and testing, project management, installation, and modification engineering. Travel time associated with engineering work is charged at the hourly rate. Equipment and parts are additional.

Radio Maintenance Services:

Equipment Installation and Modification:

\$122.00 per hour

Installation, modification, and relocation of radio and related equipment at Agency facilities during normal business hours. Travel time is charged at the hourly rate. Parts are additional.

Depot Repairs

\$122.00 per hour

Handheld/mobile radio equipment is delivered and picked up by Agency at PSC Depot facilities. If requested, arrangements may be made for PSC pickup and/or delivery; however, shipping charges will apply.

Annual Maintenance Service Program (Fixed Rate):

Estimates available
upon request

The program covers all breakdown repair and preventive maintenance for equipment covered by the program, including travel, emergency call-back and parts for a fixed annual rate. The fixed rate is based on a 3-year average of repair hours for individual agencies covered by the program.

Mobile Radio Equipment Installation/Removal (Flat Rate):

Estimates available
upon request

Installation, removal and modification of mobile radios, undercover installations, Code 3 installations and related equipment. Travel time is charged at a flat rate.

Emergency Repair/Installation (Hourly Rate):

\$122.00 per hour

Technician call-back for emergency repairs or installation activities after normal working hours, weekends and holidays. Travel time is charged at the hourly rate. Parts are additional. (Minimum four hours charged per Department of Personnel Administration Rule 599.708.)

For additional information, contact the Public Safety Communications at (916) 657-9405.

Updated 10/07/2015

EXHIBIT C
GENERAL TERMS AND CONDITIONS – INTERAGENCY AGREEMENTS (GIA-610)

www.documents.dgs.ca.gov/ols/GIA-610.doc

EXHIBIT D
EQUIPMENT LIST

LIST of EQUIPMENT TO BE MAINTAINED

Attached is TDM 3415.2.2 (Equipment Code definitions) for assistance in determining equipment types and code abbreviations.

Code	Manufacturer	Model Number	Serial Number	Agency Property Number	Location
	Motorola Quantar Repeater	T5365A	-0-	Quantity - 2	SILVER PEAK/ INYO SHERIFF
	Motorola Duplexer	Q202GC-UHF	-0-	Quantity - 2	SILVER PEAK/ INYO SHERIFF
	Motorola Quantar Repeater	T5365A	-0-	Quantity - 2	MAZOURKA PEAK/ SHERIFF
	Motorola Duplexer	Q202GC-UHF	-0-	Quantity - 2	MAZOURKA PEAK/ SHERIFF
	Motorola UHF Quantar Link Radio	-0-	-0-	Quantity - 4	CERRO GORDO/INYO SHERIFF
	Motorola UHF Duplexer	PD696SR22	-0-	Quantity - 4	CERRO GORDO/INYO SHERIFF
	Motorola VHF Quantar Repeater	-0-	-0-	Quantity - 2	CERRO GORDO/INYO SHERIFF
	Motorola Duplexer	Q202GC-UHF	-0-	Quantity - 2	CERRO GORDO/INYO SHERIFF
	Communication Specialist TP38	-0-	-0-	Quantity - 2	CERRO GORDO/INYO SHERIFF

EXHIBIT D
EQUIPMENT LIST (continued)

Code	Manufacturer	Model Number	Serial Number	Agency Property Number	Location
	Motorola UHF Quantar Link Radio	-0-	-0-	Quantity - 2	ROGERS PEAK/ INYO SHERIFF
	Morotola Quantar VHF Control Station	-0-	-0-	Quantity -2-	ROGERS PEAK/ INYO SHERIFF
	Motorola VHF Quantar Repeater	T5365A	-0-	Quantity - 1	ROGERS PEAK/ INYO SHERIFF
	Motorola UHF Duplexer	PD696SR22	-0-	Quantity -2-	ROGERS PEAK/ INYO SHERIFF
	Motorola VHF Duplexer	Q202GC-UHF	-0-	Quantity - 1	ROGERS PEAK/ INYO SHERIFF
	Communication Specialist TP38	-0-	-0-	Quantity - 2	ROGERS PEAK/ INYO SHERIFF
	Motorola Quantar Repeater	T5365A	-0-	Quantity - 2	EL PASO/ INYO SHERIFF
	Motorola Duplexer	Q202GC-UHF	-0-	Quantity - 2	EL PASO/ INYO SHERIFF
	Motorola Quantar Repeater	T5365A	-0-	Quantity - 1	TECOPA/ INYO SHERIFF
	Motorola Duplexer	Q202GC-UHF	-0-	Quantity - 1	TECOPA/ INYO SHERIFF

EXHIBIT D
EQUIPMENT LIST (continued)

Code	Manufacturer	Model Number	Serial Number	Agency Property Number	Location
	Motorola VHF Spectra Base Consolettes	-0-	-0-	Quantity - 9	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Motorola Low Band Spectra Base Consolette	-0-	-0-	Quantity - 1	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Motorola UHF Quantar Control Stations	-0-	-0-	Quantity - 2	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Motorola VHF Quantar Control Stations	-0-	-0-	Quantity - 3	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Motorola Centracom Gold Console Positions with one main frame	-0-	-0-	Quantity - 2	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Spectracom GPS receiver	-0-	-0-	Quantity - 1	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Motorola MCS 2000 Base Stations	-0-	-0-	Quantity - 2	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Motorola MCS2500 Desk Set	-0-	-0-	Quantity - 1	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF
	Communication Specialist TP38	-0-	-0-	Quantity - 4	INDEPENDENCE DISPATCH CENTER/INYO SHERIFF



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

22A

Consent Departmental Correspondence Action Public Hearing
Scheduled Time for Closed Session Informational

FROM: Water Department

FOR THE BOARD MEETING OF April 09, 2019

SUBJECT: Owens Valley Groundwater Authority Meeting – April 18, 2019

DEPARTMENTAL RECOMMENDATION:

A meeting of the Owens Valley Groundwater Authority is scheduled for April 18, 2019 in Bishop, California. The Water Department requests your Board provide direction to the Owens Valley Groundwater Authority representatives.

SUMMARY DISCUSSION:

In 2014, the State of California signed into law the Sustainable Groundwater Management Act (SGMA). On August 1, 2017 eleven agencies within the basin entered into a joint powers agreement to form the Owens Valley Groundwater Authority (OVGA) for the purpose of creating a groundwater sustainability plan for the Owens Valley groundwater basin. The OVGA has adopted a developmental budget, bylaws, a purchasing policy, and has entered into funding agreements for state grants and contracts with consultants. Regular meetings are held monthly.

The OVGA will hold its next regular meeting on April 18, 2019; a draft agenda is attached. The agenda contains several informational items and several action items described below.

Items 1-6 are standing ceremonial or informational items.

Item 7. Status of Proposition 1 Grant Advance Payment Request. This is an update from staff on acquisition of an advance payment on the Proposition 1 grant obtained by Inyo County and transferred to the OVGA to fund development of the Groundwater Sustainability Plan. We have received tentative approval of the application for the advance on the grant.

Item 8. Approve 2019-2020 OVGA Budget. The OVGA Joint Powers Agreement requires an annual budget for the 2019-20 fiscal year be approved by May 1. A draft budget was presented and discussed at the March 14, 2019 meeting. The draft budget corrected several assumptions regarding revenues and expenditures contained in the Development Budget which can be amended by the OVGA Board. The 2018-19 annual budget proposed for approval is unchanged from the draft discussed in March.

Item 9. Approval of Agreement with Golden State Risk Management Authority and Authorize Insurance Purchase. At the March 14, 2019 meeting, the OVGA directed staff to acquire insurance from the Golden State Risk Management Authority. This item requests approval of an agreement to join that joint powers agency and purchase the desired insurance.

Item 10. Approve Resolution Adopting a Resave Policy of the OVGA. Requested action on this item is to approve a resolution to adopt the Resave Policy discussed by the OVGA at the March 14, 2019 meeting.

Item 11. Approve Staff Services Contracts for Inyo County, Mono County, and City of Bishop. The original developmental budget for the OVGA assumed staff would consist of a part time Executive Manager and Administration staff and one part time Counsel; originally those services were provided by Inyo County. Subsequently, the OVGA Board desired collaboration among staff from Inyo County, City of Bishop, and Mono County. The roles, responsibilities, and level of service provided by staff from the three agencies are formalized in contracts submitted for OVGA approval. The total not to exceed costs of the contracts in aggregate exceed the original developmental budget. The contracts are included in the proposed OVGA 2018-19 budget.

Item 12. Approve Contract with Dr. Robert Harrington for Hydrologic Consulting Services. At the March 14, 2019 meeting, the OVGA directed staff to develop a contract with Dr. Robert Harrington for hydrologic consulting.

Item 13. Discussion of Associate and Interested Party Board Seats. The OVGA Joint Powers Agreement allows for additional members to join as Associate Members or Interested Parties. In January, 2019 the OVGA solicited Statements of Interest to assess the level of interest from potential Associate and Interested Parties. Three Associate statements and six Interested Party statements were received. A detailed staff report on this topic was discussed at the March 14 meeting. This item will discuss the decisions for the OVGA to undertake to conclude whether to add seats if any.

Items 14-17 are informational or ceremonial items. Staff anticipate the GSP consultant will provide updates or presentations on the Public Engagement Plan, data acquisition, and the hydrogeologic conceptual model at the next OVGA meeting in May.

OTHER AGENCY INVOLVEMENT:

City of Bishop, Mono County, Tri-Valley GWMD, Indian Creek-Westridge CSD, Wheeler Crest CSD, Big Pine CSD, Sierra Highlands CSD, Keeler CSD

FINANCING:

N/A

APPROVALS

COUNTY COUNSEL: <p style="text-align: center;">N/A</p>	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> <p style="text-align: right;">Approved: _____ Date: _____</p>
AUDITOR/CONTROLLER: <p style="text-align: center;">N/A</p>	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> <p style="text-align: right;">Approved: _____ Date: _____</p>
PERSONNEL DIRECTOR: <p style="text-align: center;">N/A</p>	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> <p style="text-align: right;">Approved: _____ Date: _____</p>

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)



Date: 4-3-19

Owens Valley Groundwater Authority

**Bishop Fire Training Center
960 Poleta Rd.
Bishop, CA
April 18, 2019 2:00 PM**

Board of Directors Meeting Agenda

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Members of the public will be allowed to speak about each agenda item before the Board of Directors takes action on it. Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Directors or the Owens Valley Groundwater Authority.

Public Notice: In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact Laura Piper at (760) 878-0001. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require alternative formatting of this agenda, please notify Laura Piper 72 hours prior to the meeting to enable the OVGA to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2).

OPEN SESSION (With the exception of timed items, all open-session items may be considered at any time and in any order during the meeting in the Board's discretion.)

1. Pledge of allegiance.
2. Public comment.
3. Introductions.
4. Approval of minutes from the March 14, 2019 OVGA Board meeting.
5. Board Member Reports.
6. Financial Report.
7. Status of Proposition 1 Grant Advance Payment Request.
8. Approve 2019-2020 OVGA budget.
9. Approval of Agreement with Golden State Risk Management Authority and Authorize Insurance Purchase.
10. Approve Resolution Adopting a Reserve Policy of the OVGA.
11. Approve Staff Services Contracts for Inyo County, Mono County, and City of Bishop.
12. Approve Contract with Dr. Robert Harrington for Hydrologic Consulting Services.
13. Discussion of Associate and Interested Party Board Seats.
14. Reports from OVGA members' staff.
15. Discussion regarding future agenda items.
16. Set next meeting.
17. Adjourn.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

22B

Consent X Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Water Department

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Inyo County/Los Angeles Standing Committee Meeting – May 6, 2019

DEPARTMENTAL RECOMMENDATION:

A meeting of the Inyo County/Los Angeles Standing Committee is scheduled for May 6, 2019 at the County Administrative Center, Independence, California. Pursuant to Resolution 99-43 and the Long-Term Water Agreement, your Board sets policy for the County's representatives to the Standing Committee. The Water Department requests your Board provide direction to the County's Standing Committee representatives.

SUMMARY DISCUSSION:

The Standing Committee agenda has not been finalized as of the drafting of this Agenda Request, but the agenda is relatively short. A draft Standing Committee agenda is attached. It is expected that the Standing Committee agenda will include reports on runoff and operations; the annual LADWP operations plan (pumping plan) and Owens River Water Trail CEQA and funding status. The Standing Committee will set the LORP seasonal habitat flow and Blackrock Waterfowl Management Area flooded acreage in consultation with California Fish and Wildlife.

Item 1 - Approval of documentation of actions from the May 31, 2018 meeting.

Item 2 – Runoff and Operations Update. LADWP's annual Owens Valley runoff forecast has not been released yet, but the snowpack is approximately 172% of normal for April 1.

Item 3 – Report on LADWP's 201-20 Owens Valley Operations Plan. The draft Operations Plan is due April 20, but given the extremely favorable runoff, we suspect it will be a relatively low proposed pumping amount. The draft Operations Plan and the County's comments on the Plan will be completed before the date of the Standing Committee meeting.

Item 4a – Consultation with California Fish and Wildlife. The 1997 MOU requires that the LORP seasonal habitat flow be set by the Standing Committee in consultation with the California Department of Fish and Wildlife. Typically, we receive their recommendation in a letter in April.

Item 4b -Setting Lower Owens River Project seasonal habitat flow – Consideration of Technical Group recommendation. Unless the Standing Committee directs otherwise, the peak flow and duration of the seasonal habitat flow is set out in the LORP Final EIR. It is safe to predict that runoff will be above average and the seasonal habitat flow according to the flow schedule in the EIR will peak at 200 cubic feet per second

Item 4d - Blackrock Waterfowl Management Area flooded acreage. The flooded acreage in the Blackrock Waterfowl Management Area is set out in the LORP Final EIR. It is safe to predict that runoff will be above average, and unless the Standing Committee directs otherwise the flooded acreage will be 500 acres.

5 – Report on LADWP funding for CEQA analysis of the Owens River Water Trail Project. Inyo County will provide a status report on the completion of the CEQA. The Administrative Draft EIR for the project has been circulated and a Draft EIR for public comment is in preparation. Because LADWP provided funding to the County to complete the EIR, the update will also include a financial report.

Attachments:

Draft Standing Committee agenda.

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT: LADWP, CDFW

FINANCING: N/A

<u>APPROVALS</u>	
COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: _____ Date: _____
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: _____ Date: _____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date: _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)



Date: 4-3-19

AGENDA

INYO COUNTY/LOS ANGELES STANDING COMMITTEE

1:00 p.m.
May 6, 2019

Board of Supervisors Room, County Administrative Center
224 North Edwards Street
Independence, California

The public will be offered the opportunity to comment on each agenda item prior to any action on the item by the Standing Committee or, in the absence of action, prior to the Committee moving to the next item on the agenda. The public will also be offered the opportunity to address the Committee on any matter within the Committee's jurisdiction prior to adjournment of the meeting.

1. **Action Item:** Approval of documentation of actions from the May 31, 2018 meeting.
2. Runoff and Operations update.
3. Report on LADWP's 2019-20 Owens Valley Annual Operation Plan.
4. Lower Owens River Project
 - a. Consultation with California Department of Fish and Wildlife concerning item 4b.
 - b. **Action Item:** Setting seasonal habitat flow.
 - c. Report on Blackrock Waterfowl Management Area flooded acreage.
 - d. **Action Item:** Establishment of Blackrock Waterfowl Management Area flooded acreage.
5. Report on LADWP funding for CEQA analysis of the Owens River Water Trail Project
6. Public Comment.
7. Confirm schedule for future Standing Committee meetings.
8. Adjourn.

Standing Committee meeting protocols (Adopted May 11, 2011)

The Inyo/Los Angeles Long-Term Water Agreement (LTWA) define the Standing Committee in Section II:

As agreed by the parties, the Department representatives on the Standing Committee shall include at least one (1) member of the Los Angeles City Council, the Administrative Officer of the City of Los Angeles, two (2) members of the Board of Water and Power Commissioners, and three (3) staff members. The County representatives on the Standing Committee shall be at least one (1) member of the Inyo County Board of Supervisors, two (2) Inyo County Water Commissioners, and three (3) staff members.

The LTWA further provides that:

Regardless of the number of representatives from either party in attendance at a Standing Committee or Technical Group meeting, Inyo County shall have only one (1) vote, and Los Angeles shall have only one (1) vote.

The Standing Committee adopts the following protocol for future Standing Committee meetings.

1. In order for the Standing Committee to take action at a meeting, representation at the meeting will consist of at least four representatives of Los Angeles, including one member of the Los Angeles City Council or Water and Power Commission, and four representatives of Inyo County, including one member of the Board of Supervisors.
2. A Chairperson from the hosting entity will be designated for each meeting.
3. In the event that an action item is on the meeting agenda, Los Angeles and Inyo County shall each designate one member to cast the single vote allotted to their entity at the onset of the meeting. The Chairperson may be so designated. Agenda items that the Standing Committee intends to take action on will be so designated on the meeting agenda.
4. If representation at a Standing Committee meeting is not sufficient for the Standing Committee to act, the Standing Committee members present may agree to convene the meeting for the purpose of hearing informational items.
5. Meeting agendas shall include any item within the jurisdiction of the Standing Committee that has been proposed by either party.
6. The public shall be given the opportunity to comment on any agenda item prior to an action being taken. The public will be given the opportunity to comment on any non-agendized issue within the jurisdiction of the Standing Committee prior to the conclusion of each scheduled meeting. At the discretion of the Chairperson, reports from staff or reopening of public comment may be permitted during deliberations.
7. The Chairperson may limit each public comment to a reasonable time period. The hosting entity will be responsible for monitoring time during public comment.
8. Any actions taken by the Standing Committee shall be described in an action item summary memorandum that is then transmitted to the Standing Committee at its next meeting for review and approval. This summary memorandum shall also indicate the Standing Committee members present at the meeting where actions were taken.
9. Standing Committee meetings shall be voice recorded by the host entity and a copy of the recording shall be provided to the guest entity.
10. (Added February 24, 2012) The Standing Committee may also receive comments/questions in written form from members of the public. Either party may choose to respond, however, when responding to a public comment/question, whether verbally or in writing, any statements made by either party may represent the perspective of that party or the individual making the response, but not the Standing Committee as a whole (unless specifically agreed to as such by the Standing Committee). When either party responds in writing to public comment/question, that response will be concurrently provided to the other party.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
23

- Consent Hearing
 Departmental
 Correspondence Action
 Public
 Scheduled Time for
 Closed Session
 Informational

FROM: HEALTH & HUMAN SERVICES – Aging and Social Services

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Approval of agreement with RTZ Associates, Inc. for the provision of an on-line web portal for GetCare program in ESAAA.

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the agreement between the County of Inyo and RTZ Associates Inc. for the provision of an on-line web portal for GetCare program, in the amount of \$14,930.00 for the period of April 1, 2019, through June 30, 2019 and \$18,120 for FY 19/20 and \$18,120 for FY20/21 for a total amount of \$51,170 contingent upon adoption of future budgets, and authorize Marilyn Mann, Director of Health and Human Services, to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

California Department of Aging requires that program specific data be submitted monthly. The former IS Director developed an in-house system to collect the data, generate the donation letters and submit data to the State. The data system requires reprogramming periodically to accommodate state requirements and the data upload submissions periodically fail as a result of the system interface.

RTZ Associates Inc. is a vendor that offers GetCare, an online system that is currently used by Planning Service Areas (PSA) to collect data, generate donation letters and submit data to the State, which also uses the RTZ system. Currently, program staff in both Inyo and Mono County aging programs are collecting data on paper rosters, manually tally services units, and forward the information to our fiscal staff who then input the data into our system. With GetCare, staff will be using bar code scanners to track the data and it will be electronically submitted into the system in real time reducing data errors, eliminating paper storage issues, and reducing data submission failures.

RTZ Associates updates GetCare with state-mandated reporting elements regularly, ensuring minimal data submission errors. Having real time data will also help ensure accuracy of utilization data which is used as one data element when determining allocation of dollars across Inyo and Mono counties.

The cost of GetCare, which includes 15 access licenses, for the period of April 1, 2019 through June 30, 2021 is \$10,400 (which includes the optional barcode scanning component) initial one-time fee and 3 monthly payments of \$1,510 (which includes the optional barcode scanning component) for FY 18/19 and then 12 monthly payments of \$1,510 (\$18,120) for FY 19/20 and 20/21 respectively. This system will be utilized to manage data for I.C. GOLD, as well as managing bus passes and other "gift" cards used across multiple programs, allowing the cost of the system to be spread across multiple budgets. We are respectfully requesting your Board's approval to enter into a three year agreement with RTZ Associates Inc. as outlined above.

ALTERNATIVES:




The County could choose to not approve this agreement and we will continue to work with county IS staff to update the current system.

OTHER AGENCY INVOLVEMENT:

California Department of Aging

FINANCING:

State and Federal funds. This expense will be budgeted in ESAAA (683000), Social Services (055800), Community Mental Health (045200), and Health (045100) under Professional Services (5265). No County General Funds.

APPROVALS	
COUNTY COUNSEL: 	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)</i> Approved: <u>yes</u> Date: <u>3/25/19</u>
AUDITOR/CONTROLLER: 	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)</i> Approved: <u>yes</u> Date: <u>3/22/2019</u>
INFORMATION SERVICES:	INFORMATION SERVICES AND RELATED ITEMS <i>(Must be reviewed and approved by the Director of Information Services prior to submission to the Board Clerk.)</i> Approved:  Date: <u>3/22/2019</u>

DEPARTMENT HEAD SIGNATURE:  Date: 3/28/19
(Not to be signed until all approvals are received)

GetCare Agreement “Software as a Service”

This Agreement is by and between the **Eastern Sierra Area Agency on Aging (ESAAA)** and **RTZ Associates, Inc. (RTZ)**, incorporated and headquartered in the State of California. This Agreement specifies the rights, obligations, and requirements governing the provision and use of RTZ’s **GetCare** software – a cloud-based, “off-the-shelf” commercial software product designed to support the business needs of Area Agencies on Aging (AAAs). This Agreement shall be effective when fully executed by both parties (the “Effective Date”).

I Services:

- 1.1 RTZ will provide ESAAA with the current version (v.2019) of GetCare per a “software as a service” model. ESAAA is entitled to receive all general updates to this version of GetCare during the Term of this Agreement at no additional cost. The content and schedule of general GetCare updates will be solely determined by RTZ; however, RTZ will make any data collection/reporting changes required by the California Department of Aging or state or federal law in a timely manner at no additional cost. For the Term of this Agreement RTZ hereby grants ESAAA an unlimited, non-exclusive license to access and use GetCare (including all successor versions thereof) as provided for herein.
- 1.2 RTZ will host GetCare in accordance with the Service Level Agreement (SLA) incorporated in Attachment B. In addition to the production (i.e. “live”) environment, for 30 days both before and after the Go-Live date, RTZ will also host a sandbox environment to support acceptance testing and training activities. As a cloud-based service, use of GetCare requires a computer or mobile device with internet access and a web-browser. ESAAA assumes responsibility for purchasing and supporting all software and hardware used to access GetCare.
- 1.3 RTZ will provide system implementation services necessary for ESAAA to access and use GetCare as intended under this Agreement. Optional system configuration, data conversion, and training services are outlined in Attachment C (“Pricing”).
- 1.4 RTZ will provide ESAAA with routine technical support via phone and email during normal RTZ business days (Monday through Friday – excluding holidays observed by the New York Stock Exchange – between the hours of 8am and 6pm Pacific Time).
- 1.5 RTZ warrants that GetCare – as provided to ESAAA: (a) will be free from coding errors and defects, (b) will perform as specified / presented by RTZ, (c) will meet or exceed industry security and disaster recovery standards, and (d) will not infringe upon, violate, or misappropriate any foreign or United States patent, copyright, trademark, trade secret or any other intellectual property or proprietary right of any third-party. RTZ will promptly correct any component of GetCare which does not conform with any of the foregoing representations and warranties at no charge to ESAAA.

II Pricing:

- 2.1 The pricing for GetCare is specified in Attachment C.
- 2.2 ESAAA shall keep pricing information confidential and shall not disclose pricing information unless required by law.
- 2.3 RTZ shall invoice ESAAA on a monthly basis in advance of each month (not in arrears), or as otherwise agreed upon by both Parties in writing.
- 2.4 Payment is due and payable within 30 calendar days following receipt of a correct and undisputed invoice.
- 2.5 Any undisputed amounts not paid when due are subject to a late fee of 1% per month (a compounded annual rate of 12.68%) – or the maximum amount allowed by law, whichever is less – provided that RTZ has given ESAAA written notice of delinquency and at least 30 calendar days to cure such delinquency.
- 2.6 ESAAA will pay all federal, state, or local sales or use taxes that RTZ is legally obligated to charge, unless ESAAA has furnished RTZ with a certificate of exemption with respect thereto. ESAAA is not liable for any taxes that RTZ is legally obligated to pay, including, without limitation, any taxes based upon RTZ's property, net income or gross receipts.

III Term:

- 3.1 This Agreement shall go into effect immediately upon execution by both parties and have an Initial Term of thirty-six (36) months.
- 3.2 At the end of the Initial Term (and then at the end of each subsequent renewal term) this Agreement shall automatically renew in twelve (12) month increments unless ESAAA gives written notice of its intent to discontinue use of GetCare to RTZ at least thirty (30) calendar days prior to the expiration of the then current term, or RTZ gives written notice of its intent to discontinue the provision of GetCare to ESAAA at least thirty (30) calendar days prior to the expiration of the then current term. Each renewal term will be subject to a cost of living adjustment based on the then-current CPI-U published by the U.S. Department of Labor or as otherwise renegotiated by both parties.

IV Termination:

- 4.1 Pricing under this Agreement is based on a fixed-term contract with no "Termination for Convenience" rights. If parties agree to a Termination for Convenience amendment in writing, this Agreement shall become a month-to-month agreement, and the monthly costs specified in Attachment C will increase by 50%.
- 4.2 Termination for Cause. In the event of a material breach of any clause, condition or covenant of this Agreement by one party, the non-breaching party may terminate the

Agreement if the breaching party does not cure the breach within thirty (30) calendar days of receiving written notice of such breach.

- 4.3 Upon the effective date of termination of this Agreement, all use licenses shall expire. In the event of termination, RTZ shall deliver to ESAAA a copy of all ESAAA data. Specifically, RTZ will provide up to two sets of files – one preliminary set of files for review, and one final set of files for migration to a new system. RTZ will provide said data in a non-proprietary electronic format (.CSV or equivalent). ESAAA assumes ultimate responsibility for checking files for accuracy/completeness and notifying RTZ of any errors/omissions. Files will only include ESAAA data; i.e. they will not include GetCare data such as (but not limited to) validations/constraints, triggers, algorithms, or stored procedures. RTZ will not provide a data dictionary or schema; however, upon request RTZ will participate in one phone call with ESAAA staff (and only ESAAA staff) not to exceed one hour in length in which RTZ can clarify fields/files as needed. ESAAA understands that Agreement pricing does not include transition assistance, such as (but not limited to) data translation, conversion, or migration assistance. At its sole discretion, ESAAA may engage RTZ at its standard hourly rate identified in Attachment C to provide data translation or other transition-related services.
- 4.4 All terms and conditions of this Agreement that would reasonably be interpreted as surviving termination of this Agreement will be deemed to survive termination of this Agreement.

V Relationship of the Parties and Their Employees:

- 5.1 Nothing in this Agreement shall be construed to create an employer/employee relationship between ESAAA and RTZ or its personnel, and personnel shall not be eligible for any employee benefits programs of ESAAA, nor shall they have any claim against ESAAA for vacation pay, sick leave, retirement benefits, Social Security, Workers Compensation, disability or unemployment insurance benefits, or any other employee benefits of any kind.

VI Confidentiality:

- 6.1 It is assumed that ESAAA will enter consumer data into GetCare, including data that may meet HIPAA's definition of Protected Health Information ("PHI"). All such participant data shall be governed by the Business Associate Agreement ("BAA") incorporated in Attachment A.
- 6.2 In addition to, but separate from participant data entered into GetCare (which shall be governed by the terms of the BAA), during the course of the Agreement, one Party may share "Confidential Information" with the other party. For the purposes of this Agreement, "Confidential Information" shall mean any information either (i) marked "confidential" or "proprietary"; or (ii) which by its nature is reasonably understood to be confidential or proprietary, whether or not so marked, including but not limited to, information and know-how regarding business practices, strategies, and products/pricing. All aspects of the GetCare product, including but not limited

to source code, system logic/functionality, screen layout/design, and documents/forms/reports, shall be treated by ESAAA as Confidential Information.

- 6.2 As between the Parties, Confidential Information shall be deemed to be the sole and exclusive proprietary information of the disclosing Party.
- 6.3 Regardless of the form produced, observed, or received, each Party shall: (i) not disclose any Confidential Information to any third-party without express written consent of the disclosing Party; (ii) not use any Confidential Information for the benefit of itself or any other person or entity except as expressly permitted in this Agreement; and (iii) safeguard all Confidential Information with reasonable security measures at least equivalent to the measures that it uses to safeguard its own Confidential Information.
- 6.4 Each Party will promptly destroy / delete all Confidential Information: (i) if requested by the disclosing Party, or (ii) upon the termination of the Agreement. Notwithstanding the foregoing, the receiving Party shall be entitled to retain Confidential Information to the extent required or compelled by law. The receiving Party shall remain bound by the provisions of the Agreement with respect to Confidential Information even after the termination of the Agreement, and prevent any further use or disclosure of such Confidential Information.
- 6.5 The obligations regarding Confidential Information do not apply to information that: (i) is or becomes publicly known without breach of the Agreement, or (ii) at the time of disclosure is already known to the receiving Party without any restriction on its disclosure.

VII Ownership:

- 7.1 RTZ owns all aspects of the GetCare product, including but not limited to source code, system logic/functionality, screen layout/design, and documents/forms/reports. ESAAA agrees that it will not seek to reverse engineer GetCare or provide (and will expressly inform staff not to provide): (a) account credentials or other form of access to GetCare, (b) screenshots or other forms of visual, written, or oral descriptions of GetCare, or (c) forms/documents/reports produced by GetCare to any internal software development team or third-party – specifically but not limited to other software vendors competing with or seeking to compete with RTZ. No ownership equity in GetCare shall accrue to ESAAA through its use of GetCare under this lease arrangement.
- 7.2 ESAAA owns all data and information that it enters into GetCare. RTZ shall not acquire any rights to any such ESAAA data or information, and further, shall only use participant data – including de-identified participant data – to fulfill its obligations under this Agreement.
- 7.3 ESAAA agrees not to provide RTZ with any electronic files or printed documents containing any information that it does not solely own or otherwise have the rights to use, copy, and disseminate in the manner contemplated by this Agreement (and ESAAA assumes sole responsibility for clarifying and ensuring ownership and usage rights). ESAAA agrees to indemnify, defend, and hold harmless RTZ (and its principals, employees, and agents) from any and all actions, claims, losses, damages,

penalties, and costs (including costs for reasonable attorney fees) that are reasonably caused by its provision or disclosure of intellectual property (including but not limited to data structures, forms / assessments, or other information) claimed by a third-party to be proprietary in nature and/or protected by trademark, copyright, or patent laws.

VIII Dispute Resolution:

8.1 Each Party must provide the other Party with written notification of any controversy, dispute, or disagreement arising out of or relating to this Agreement or the breach thereof. The receiving Party shall respond to any disputes with 10 business days, and the Parties shall attempt in good faith to resolve such dispute, including requiring a member of each Party's respective executive management team to participate in this dispute resolution process. Should parties not reach a resolution within 30 calendar days (or a timeline mutually agreed upon by both parties in writing), the dispute shall be referred to mediation. If mediation is unsuccessful, either party may pursue remedies available to it at law that are consistent with the terms of this Agreement, in any court of competent jurisdiction.

IX Choice of Law / Situs:

9.1 RTZ and ESAAA are both domiciled in the State of California, and this Agreement shall be governed by the laws of the State of California. In the event that one Party institutes any legal proceedings against the other Party, such legal proceeding shall be brought in any court in Contra Costa County (California), and both Parties expressly submit to the jurisdiction of such court.

X Entire Agreement:

10.1 This Agreement, including Attachments A, B, and C, constitute the entire agreement of the parties hereto, and all previous communications between the parties, whether written or oral, with respect to the subject matter of this contract, are hereby superseded. No amendment, change or modification of this Agreement shall be effective unless in writing and signed by the parties hereto.

10.2 If any part of this Agreement is declared invalid or becomes inoperative for any reason, such invalidity or failure shall not affect the validity and enforceability of any other provision.

XI Notices:

11.1 All notices affecting this Agreement must be in writing to the undersigned or to the individual reasonably assumed to be his/her successor or appointed representative regarding matters herein.

XII Waiver of Breach:

- 12.1 A waiver of a breach of any provision of this contract by either Party will not operate or be construed as a waiver of any subsequent breach.

XIII Non-Exclusion:

- 13.1 RTZ represents and warrants to ESAAA that neither it nor any of its affiliates: (a) are excluded from participation in any federal health care program, as defined under 42 U.S.C. § 1320a-7b(f), for the provision of items or services for which payment may be made, either directly or indirectly (e.g., through inclusion in a Medicare cost report), under such federal health care program; and (b) has arranged or contracted (by employment or otherwise) with any employee, agency or agent that such party or its affiliates knows or should know are excluded from participation in any federal program, to provide items or services hereunder. RTZ represents and warrants to ESAAA that no final adverse action, as such term is defined under 42 U.S.C. §1320a-7.e(g), has occurred or is pending or threatened against such contractor or its affiliates or, to their knowledge, against any employee or agent engaged to provide services under this Agreement.

XIV Omnibus Reconciliation Act:

- 14.1 RTZ hereby agrees that, subject to the legality and applicability of Section 952 of the Omnibus Reconciliation Act of 1980 and implementing regulations: (i) until the expiration of four (4) years after the furnishing of services under this contract, RTZ shall make available, upon written request of an appropriate federal official, this contract and any books, documents and records of RTZ that are necessary to certify the nature and extent of the costs of such services; and (ii) if RTZ carries out any of the duties of this contract through a subcontract with a value or cost of \$10,000 or more over a twelve (12) month period, with an organization related to RTZ, such subcontract shall contain a clause similar to subparagraph (i) above, making available the subcontract and the books, documents, and records of such related organization which are necessary to verify the nature and extent of the costs of the subcontracted services, upon written request of an appropriate federal official.

XV General Provisions:

- 15.1 Proper use and safeguarding of the system and its data is the responsibility of both parties. ESAAA shall create and enforce rules related to accessing and handling consumer data in GetCare.
- 15.2 Except in the event of gross negligence or willful misconduct, under no circumstance shall either Party's total liability under this Agreement exceed the annual amount paid or payable to RTZ under this Agreement. Each Party shall defend, indemnify, and hold harmless the other Party against any and all third-party claims and resulting damages (including reasonable attorneys' fees) arising out of the gross negligence or willful misconduct of, or breach of this Agreement by, such Party.

- 15.3 Force Majeure: Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting from Acts of God, civil or military authority, acts of war or terrorism, or riots or insurrections. If, notwithstanding RTZ's disaster recovery/business continuity plan, a Force Majeure event renders RTZ unable to perform its obligations under this Agreement or materially impacts the functionality or accessibility of GetCare for a period of ten (10) or more consecutive business days, then ESAAA shall have the right to terminate this Agreement without penalty.
- 15.4 In the event RTZ plans to cease operations or cease its support of GetCare – or otherwise sell its rights to the GetCare product – RTZ shall notify ESAAA promptly.

This Agreement may be executed in counterparts; each counterpart may be deemed an original and all counterparts together shall constitute a single document. For the purpose of this Agreement, a facsimile or PDF signature transmitted electronically shall be valid and binding as if it was an original signature. The Agreement shall become effective upon the full execution of the Agreement by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the Effective Date specified herein.

RTZ Associates, Inc.



 Signature of authorized representative

Michael Zawadski
 Printed name

President
 Title

March 7, 2019
 Date

Eastern Sierra Area Agency on Aging

 Signature of authorized representative

 Printed name

 Title

 Date

ATTACHMENT A

Business Associate Agreement

This HIPAA Business Associate Agreement (“Agreement”) is entered into by and between **RTZ Associates, Inc.** (“Business Associate”) and **Eastern Sierra Area Agency on Aging** (“Covered Entity”) (collectively “the Parties”).

Covered Entity has engaged Business Associate to perform services on its behalf. Covered entity possesses Protected Health Information (“PHI”) (defined below). Covered Entity and Business Associate intend to: (i) protect the privacy and provide for the security of PHI disclosed pursuant to this Agreement and (ii) comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH”), Public Law 111-5, and the regulations promulgated thereunder by the U.S. Department of Health & Human Services (the “HIPAA Regulations”), and other applicable federal and state laws.

NOW, THEREFORE, the Parties agree as follows:

Article 1. Definitions.

- a. “Breach” means the acquisition, access, use, or disclosure of PHI in a manner not permitted under subpart E of 45 CFR Part 164 that compromises the security or privacy of the PHI (within the meaning of 45 CFR 164.402).
- b. “Designated Record Set” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR 164.501.
- c. “Electronic Protected Health Information” or “ePHI” means PHI that is transmitted by or maintained in electronic media as defined in 45 CFR 160.103.
- d. “Privacy Rule” shall mean the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
- e. “Protected Health Information” or “PHI” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR 164.103, and is the information created or received by Business Associate from or on behalf of Covered Entity, including, but not limited to, ePHI.
- f. “Secretary” shall mean the Secretary of the U.S. Department of Health & Human Services or designee.
- g. “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in regulations or other guidance issued under Section 13402(h)(2) of HITECH.

Article 2. Obligations of Business Associate.

1. **Permitted Uses.** Except as otherwise limited in this Agreement or by law, Business Associate may: (i) use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity; (ii) use PHI to carry out the legal responsibilities of Business Associate; (iii) conduct any other use or disclosure permitted or required by HIPAA or applicable federal or state law; or (iv) use PHI for the proper management and administration of Business Associate.
2. **Permitted Disclosures.** Business Associate shall not disclose PHI except for the purpose of performing its obligations under this Agreement or as required by law. Business Associate shall not disclose PHI in any manner that would constitute a violation of the Privacy Rule or HITECH if so disclosed by the Covered Entity. If Business Associate discloses PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such PHI will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
3. **Appropriate Safeguards.** Business Associate shall use appropriate physical, technical, and administrative safeguards (i) to prevent use or disclosure of PHI other than as permitted under this Agreement or as required by law and (ii) to reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that Business Associate creates, receives, maintains, or transmits on behalf of the Covered Entity.
4. **Reporting of Improper Use or Disclosure.** Business Associate shall report in writing to Covered Entity any access, use, or disclosure of PHI not permitted by this Agreement promptly and in no case later than 60 calendar days, after discovery.
5. **Reporting of a Breach.** Business Associate shall, in accordance with the requirements of 45 CFR 164.410, promptly notify Covered Entity in writing, of a Breach of Unsecured PHI. Business Associate also shall, without unreasonable delay, but in no event later than sixty (60) calendar days after the discovery of a Breach of Unsecured PHI, notify affected Individuals, the Secretary, and media of such Breach to the extent required under, and in accordance with the requirements of, 45 CFR 164.400 et seq. (Subpart D). To the extent provided under 45 CFR 164.404(a)(2), a Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate.
6. **Business Associate's Agents.** Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI agrees in writing to the same restrictions and conditions that apply to Business Associate to such PHI and implement the safeguards required above with respect to ePHI. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate such effects of any such violation.
7. **Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Breach relating to Business Associate or any of its agents or subcontractors.

8. Access to PHI. Business Associate shall provide access to an Individual, at the request of the Individual or the Covered Entity, to PHI in a Designated Record Set maintained by, or in the possession of, Business Associate in the time and manner required of a Covered Entity under 45 CFR 164.524 or as required by law. Any denial of access to such PHI determined by Business Associate shall be the sole responsibility of Business Associate, including, but not limited to, resolution or reporting of all appeals and/or complaints arising therefrom. Business Associate shall promptly report all such requests and their resolution to Covered Entity. Business Associate shall promptly notify the Covered Entity of any request made to the Business Associate that extends to other PHI.

9. Amendment of PHI. Business Associate shall make a determination on any authorized request by an Individual for amendment(s) to PHI in a Designated Record Set maintained by, or in the possession of, Business Associate in the time and manner required of a Covered Entity under 45 CFR 164.526 or as required by law. Any denial of such a request for amendment of PHI determined by Business Associate shall be the responsibility of Business Associate, including, but not limited to, resolution or reporting of all appeals, and complaints arising therefrom. Business Associate shall report all approved amendments or statements of disagreement/rebuttals in accordance with 45 CFR 164.526. Business Associate shall also promptly report all such requests and their resolution to Covered Entity.

10. Documentation of Disclosures. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. At a minimum, such documentation shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure. Business Associate shall retain such documentation for such period as is set forth in the Privacy Rule or other applicable laws.

11. Accounting of Disclosures. Business Associate agrees to provide to the Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule upon the Covered Entity's request.

12. Governmental Access to Records. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI available to Covered Entity or to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule.

13. HITECH Compliance. Business Associate shall:

(i) not receive, directly or indirectly, any impermissible remuneration in exchange for PHI or ePHI, except as permitted by HITECH § 13405(d);

(ii) comply with the marketing and other restrictions applicable to business associates contained in HITECH § 13406;

(iii) to the extent required under HITECH § 13404, fully comply with the applicable requirements of 45 CFR 164.502(e)(2) for each use or disclosure of PHI;

(iv) to the extent required under HITECH § 13401, fully comply with 45 CFR 164.308, 164.310, 164.312, and 164.316; and

(v) to the extent required under HITECH §§ 13401 and 13404, comply with the additional privacy and security requirements that apply to covered entities in the same manner and to the same extent as Covered Entity is required to do so.

Article 3. Obligations of Covered Entity.

1. Delegation to Business Associate. As set forth in this Agreement, Covered Entity hereby delegates to Business Associate Covered Entity's responsibility to provide access, amendment, and accounting rights to Individuals with respect to PHI in any Designated Record Set maintained by, or in the possession of, Business Associate. It is understood that Business Associate will interact with the Individual directly, up to and including resolution of any appeals or reporting of complaints under HIPAA or applicable federal or state law. Further, Covered Entity hereby delegates to Business Associate the Covered Entity's obligations with respect to notice of Breaches of Unsecured PHI. In accordance with this Agreement, Business Associate shall notify affected Individuals, Covered Entity, the Secretary, and media (if required by law) of such Breach within sixty (60) calendar days after discovery. Such notice shall comply with the notification requirements set forth in HITECH, 45 CFR Parts 160 and 164 (specifically, 45 CFR 164.410), and any other associated regulations.

2. Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice. Business Associate shall not distribute its own notice to Individuals. Business Associate shall not be responsible for the content of Covered Entity's notice of privacy practices nor any error or omission in such notice.

3. Changes in Permission by Individual. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

4. Restrictions on PHI. Covered Entity shall notify Business Associate of any restriction upon the use or disclosure of PHI to which Covered Entity has agreed, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except for Business Associate's use of PHI for its proper management and administration or to carry out its legal responsibilities under this Agreement.

6. Disclosure to Third Parties. Covered Entity may request that Business Associate disclose PHI directly to another party. Covered Entity agrees that all such disclosures requested by Covered Entity shall be for purposes of Covered Entity's treatment, payment or health care operations, or otherwise permitted or required under HIPAA or other applicable law.

Article 4. Use of Limited Data Sets.

The parties agree, for purposes of complying with 45 CFR 164.502(b)(1), to limit, to the extent practicable, any use, disclosure and requests of PHI to a "limited data set" (as defined in 45 CFR 164.514(e)(2)) or, if needed by the Business Associate or Covered Entity, to the minimum necessary PHI to accomplish the intended purpose of such use, disclosure or request.

Article 5. Term and Termination.

1. Term. The term of this Agreement shall commence as of the Effective Date, and shall terminate when all of the PHI provided by either party to the other, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy PHI, protections are extended to such information.

2. Termination for Cause. If either party violates or breaches a material term of this Agreement, the non-breaching party shall provide a written notice of the breach and a reasonable opportunity to the other party to cure the breach or end the violation within a reasonable period of time specified in the notice. If neither cure nor termination is feasible, the non-breaching party may report the problem to the Secretary.

3. Effect of Termination.

(i) Upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(ii) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of the PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

Article 6. Miscellaneous.

1. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is required for Covered Entity to comply with the requirements of HIPAA or HITECH and any applicable any other laws or regulations.

2. Waiver. No delay or omission by either party to exercise any right or remedy under this Agreement will be construed to be either acquiescence or the waiver of the ability to exercise any right or remedy in the future.

3. Survival. The respective rights and obligations of Business Associate shall survive the termination of this Agreement.

4. Severability. In the event any part or parts of this Agreement are held to be unenforceable, the remainder of this Agreement will continue in effect.

5. Assignment. This Agreement is not assignable by either party without the other party's written consent.

6. Prior Agreement. This Agreement shall replace and supersede any prior business associate agreement between the parties.


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

FOR:

FOR:

RTZ Associates, Inc.

Eastern Sierra Area Agency on Aging



Signature of authorized representative

Signature of authorized representative

Michael Zawadski

Printed name

Printed name

President

Title

Title

March 7, 2019

Date

Date

ATTACHMENT B
Service Level Agreement

RTZ has a solid track record providing high availability information systems. Under this SLA, RTZ will conform to the following standards during the Term of the Agreement with ESAAA:

(a) RTZ will host GetCare 24 hours a day excluding regularly scheduled routine maintenance. For the purposes of this SLA, “availability” is defined as the ability of an end-user to access the system and use all functions.

(b) All regularly scheduled routine maintenance of GetCare shall occur outside of ESAAA business hours.

(c) For the purposes of this SLA, “excusable downtime” is defined as a period of time when the GetCare site is unavailable due to: (a) a scheduled software and/or hardware upgrade within the maintenance window described above, (b) an ESAAA request to take the system offline not related to a system error/defect, or (c) a Force Majeure event (as defined in the Agreement). Except in cases of emergency, RTZ will provide ESAAA with advance notification before scheduled system unavailability.

(d) For the purposes of this SLA, “non-excusable downtime” is defined as a period of time when the GetCare site is unavailable due to: (a) an error/defect in the application or database, (b) a hardware failure at the co-location site, (c) a power failure at the co-location site, or (d) a network failure up to, but not including, the interconnection point of the co-location infrastructure and the ISP infrastructure.

(e) RTZ guarantees that GetCare site availability will meet or exceed 99.5% in any given calendar month, excluding excusable downtime. If non-excusable downtime exceeds 0.5% in any given calendar month, in addition to any other remedies available to ESAAA, RTZ will credit ESAAA according to the following schedule:

Service Level (availability per month excluding excusable downtime)	Service Level Credit (percent of monthly ASP cost in pricing schedule)
99.5% or above	None
98% -99.4%	5%
97.99 – 96%	10%
95.99 – 94%	25%
93.99 – 92%	50%

(f) In order to obtain a service level credit for a given calendar month, ESAAA must notify RTZ in writing within the first 10 business days of the following month. Upon receipt of such notification, RTZ shall use GetCare system logs to quantify downtime and determine the service level credit due. ESAAA shall not obtain any credits other than those specified above. Credit shall be applied against the next ESAAA invoice. In the event ESAAA has already paid the contract in full (and no further invoices shall issue as a result), RTZ shall remit to ESAAA the credit due within 30 days.

(g) Although RTZ may adjust its change management and installation procedures to accommodate client preferences, system patches are typically installed as soon as practical (depending on the severity of the problem and the complexity of the fix) and system updates are typically installed during the next scheduled push.

ATTACHMENT C

Pricing

Pricing for services is as follows:

	<u>one-time cost</u>	<u>ongoing cost</u>
GetCare – baseline AAA / NAPIS component	\$4,950 ¹	\$295 / month ²
↳ core I&R component	\$3,950	\$195 / month
↳ core user package – 15 user accounts	none	\$825 / month
Total of core / baseline components:	\$8,900	\$1,315 / month
▼ RTZ-offered optional services		
Barcode scanning component (optional) ³	\$1,500	\$195 per month
Customization services (optional) ⁴	\$165 / hour	none
Additional user account (optional) ⁵	none	\$55 / month (each)
Data conversion / migration services (optional) ⁶	\$165 / hour	none
Data warehouse or interface set-up (optional)	\$165 / hour	varies
Client-specific documentation (optional) ⁷	\$165 / hour	none
Onsite visit (optional) ⁸	see note	none
▼ RTZ-offered optional add-on system components		
Ombudsman (includes NORS reporting)	TBD	TBD
APS (includes NAMRS reporting)	TBD	TBD
SHIP / MIPPA (includes STARS reporting)	TBD	TBD

¹ Standard set-up services for RTZ-hosted implementation utilizing AWS “GovCloud” environment. Pricing assumes ESAAA will use standard system assessments and reports. One-time costs are invoiced / due in full upon contract execution and are not tied to specific milestones / deliverables or general project status.

² Required service bundle. Includes hosting services (utilizing the AWS “GovCloud” environment) and unlimited phone / web-based technical support. Also includes no-cost general product updates required to ensure security and operability of the system, including any changes necessary to meet evolving NAPIS reporting requirements. Ongoing fees will begin on the contract effective date and will then continue in full throughout the contract term and will not be adjusted for site use/non-use or the presence/absence of system functionality. RTZ reserves the right

to apply a cost-of-living adjustment (not to exceed 3% per annum) for any renewal periods after the Initial Term.

- ³ RTZ will provide ESAAA with minimum / recommended hardware specifications; barcode scanners are not included.
- ⁴ Customization services are defined as requested “one-off” system changes not applicable to other GetCare clients. As stated, system changes to accommodate evolving NAPIS reporting requirements are included in maintenance services.
- ⁵ A user account/license is defined as “active” if the account holder can log-in to GetCare in a given month (regardless of whether or not the account holder actually logged-in to GetCare in a given month). Cost calculations will look at the peak number of additional accounts/licenses active at any point in the month and will not prorate charges. Core / baseline package includes **fifteen (15) user accounts**. No credits shall apply for unused accounts.
- ⁶ RTZ will convert / migrate client data currently transmitted to the state CARS reporting system at no cost. At its discretion, ESAAA can purchase additional data conversion / migration services on an hourly basis. In an effort to minimize RTZ hours spent on data conversion / migration activities, RTZ can (if desirable) provide ESAAA with data format specifications. Should ESAAA provide legacy data in a format meeting these specifications and not needing data clean-up, it will greatly minimize the amount of time spent on data conversion / migration activities.
- ⁷ RTZ will provide up to 4 cumulative (non-transferrable) hours within each contract year to prepare documentation requested by – and specific for – ESAAA. (As an illustrative example, some GetCare clients ask RTZ to complete an annual client-specific questionnaire.) In the event this cumulative amount is exceeded in any given contract year, the standard hourly rate shall apply.
- ⁸ Standard set-up services include web-based training supplemented by written guides and/or video tutorials. RTZ effectively supports AAAs throughout California via phone and web-based sessions; however, if ESAAA wants an onsite visit, RTZ will provide a quote for approval based on the location, duration, and personnel required. When developing a quote, RTZ looks at personnel time/rates as well as the actual travel expenses incurred for coach airfare, mid-tier car rental or ride-share service, and business-grade lodging.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
24

- Consent Departmental Correspondence Action
- Public Hearing Schedule time for Closed Session Informational

FROM: Public works

FOR THE BOARD MEETING OF: ~~APR 19~~ 2019

SUBJECT: Request the Board approve the contract with Raftelis Financial Consultants, Inc. for Water Rate Study Services for the Lone Pine, Independence and Laws Town Water Systems for an amount not to exceed \$34,691.00.

DEPARTMENTAL RECOMMENDATIONS:

Request your Board:

- A) Approve the contract with Raftelis Financial Consultants, Inc. for the provision of Water Rate Study Services for the Lone Pine, Independence, and Laws Town Water Systems in an amount not to exceed \$34,691 for the term of January 1, 2019 to December 31, 2019;
- B) Authorize the chairperson to execute the contract; contingent upon obtaining appropriate signatures.

CAO RECOMMENDATIONS:

SUMMARY DISCUSSION:

At the November 14, 2017 meeting of the Board of Supervisors, your Board approved a sole source contract with Raftelis Financial Consultants, Inc. for Water Rate Study Services for the Lone Pine, Independence and Laws Town Water Systems. The previously approved contract ended in 2018.

This new contract will allow Raftelis to continue finalizing the rate calculations and customer impacts analysis for the Town Water Systems; provide draft and final reports that will serve as the Public Works Department's Administrative Record to meet the requirements of Proposition 218; and conduct an in- person meeting to present to the public. One additional meeting has been included in the not-to-exceed cost of the contract should Raftelis' presence be required at an additional public meeting.

The approval of this contract will allow payments of invoices for services rendered.

ALTERNATIVES:

The Board could choose not to approve this contract. This is not recommended since a portion services have been provided and this rate study is required to establish water rates to fund the Town Water Systems.

OTHER AGENCY INVOLVEMENT:

- County Counsel
- Auditor-controller

FINANCING:

The not to exceed cost is \$\$34,691.00 and will be funded 41% from Budget Unit 152201 Water System-Lone Pine and 59% from Budget Unit 152101 Water System- Independence object code 5265 professional services.

APPROVALS

COUNTY COUNSEL:

AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)

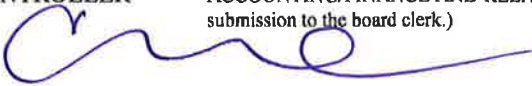


Approved: yes

Date 4/2/19

AUDITOR/CONTROLLER

ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)



Approved: yes

Date 4/3/2019

PERSONNEL DIRECTOR

PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)



Date: 2019.04.03

**AGREEMENT BETWEEN COUNTY OF INYO
AND RAFTELIS FINANCIAL CONSULTANTS, INC.**
FOR THE PROVISION OF WATWER RATE STUDY SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the WATER RATE STUDY services of RAFTELIS FINANCIAL CONSULTANTS, IN (hereinafter referred to as "Consultant"), 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.

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by the Director of Public Works. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request 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 which are referred to in this Agreement and, as applicable, as set forth, in Attachment E, attached hereto and incorporated herein.

2. TERM.

The term of this Agreement shall be from 1/01/2019 to 12/31/2019 unless sooner terminated as provided below. In addition, County shall have two options to extend the Agreement for additional one-year periods as follows:

- A. From N/A through N/A
- B. From N/A through N/A

County shall exercise such options by giving written notice to Contractor at least thirty (30) days before the expiration of the Agreement, or an extension thereof.

The notice shall specify the period of the options being exercised. The option to extend shall be upon the same terms and conditions stated in this Agreement.

3. CONSIDERATION.

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement. Consultant shall request approval by the County prior to incurring any travel or per diem expenses. Requests

by Consultant for approval to incur travel and per diem expenses shall be submitted to the Director of Public Works. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Consultant for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Consultant without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant 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. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$ 34,691.00 (initial term) \$ N/A (option 1) and \$ N/A (option 2) for a total of \$ 34,691.00 Dollars (hereinafter referred to as "contract limit"). 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. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant's when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

(4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A, which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will

coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in Attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Consultant 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, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, 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 Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, 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, Consultant'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, Consultant will convey possession and title to all such properties to County.

8. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

For the duration of this Agreement Consultant shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

9. STATUS OF CONSULTANT.

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant's, and not as agents, officers, or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Consultant is to be considered an employee of County. It is understood by both Consultant and 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 Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

Design Professional/Consultant agrees to indemnify, including the cost to defend, entity and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional/Consultant and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the County; and does not apply to any passive negligence of the County unless caused at least in part by the Design Professional/Consultant.

11. RECORDS AND AUDIT.

A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which 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 Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Consultant, 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, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Consultant 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. Consultant 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.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Consultant thirty (30) days written notice of such intent to cancel. Consultant may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Consultant abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Consultant in default and terminate this Agreement upon five (5) days written notice to Consultant. Upon such termination by default, County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be 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 twenty-two (22) below.

17. CONFIDENTIALITY.

Consultant further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County. Any disclosure of confidential information by Consultant without the County's written consent is solely and exclusively the legal responsibility of Consultant in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Consultant 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.

19. POST AGREEMENT COVENANT.

Consultant 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, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any County, 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, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. 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.

21. FUNDING LIMITATION.

The ability of County to enter 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, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be 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, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or 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 to, the respective parties as follows:

County of Inyo:	
<u>Public Works</u>	Department
<u>PO Box Q</u>	Address
<u>Independence, CA 93526</u>	City and State

Consultant:	
<u>RAFTELIS FINANCIAL CONSULTANTS, INC.</u>	Name
<u>445 S Figueroa Street, Suite 2270</u>	Address
<u>Los Angeles, CA 90071</u>	City and State

24. 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.

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**AGREEMENT BETWEEN COUNTY OF INYO
AND RAFTELIS FINANCIAL CONSULTANTS, INC.
FOR THE PROVISION OF WATER RATE STUDY SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____.

COUNTY OF INYO

CONSULTANT

By: _____
Signature

Print or Type Name

By: _____
Signature

Print or Type Name

Dated: _____

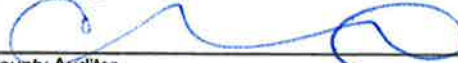
Dated: _____

APPROVED AS TO FORM AND LEGALITY:



County Counsel

APPROVED AS TO ACCOUNTING FORM:



County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

ATTACHMENT A
AGREEMENT BETWEEN COUNTY OF INYO
AND RAFTELIS FINANCIAL CONSULTANTS, INC.
FOR THE PROVISION OF WATER RATE STUDY SERVICES

TERM:

FROM: 01/01/2019 **TO:** 12/31/2019

SCOPE OF WORK:

SCOPE OF WORK:

TASK 1- RATE CALCULATIONS AND CUSTOMER IMPACTS We will develop one uniform rate structure for all three service areas. The model will have the ability to examine different levels of fixed revenues. We will also assess customer bill impacts from the revised rates.

Meeting(s): One (1) in-person meeting to discuss and present study results

Deliverable(s): Water Rate Model in Microsoft Office Excel ©2013 showing proposed rates and customer impacts.

TASK 2- DRAFT AND FINAL REPORTS The draft report will detail the assumptions used and the development of the financial plan, cost of service and rates. The report will derive the rates so that a layperson will be able to follow the rate calculations. The report will serve as the Department's Administrative Record to meet Proposition 218. Raftelis will incorporate the Department's comments into the final version.

Meeting(s): None

Deliverables: An electronic copy of the draft report and final report.

TASK 3 - ATTEND PUBLIC MEETING/WORKSHOP

Meeting(s): One (1) in-person meeting to attend public meeting/workshop. One(1) additional meeting optional as needed/requested.

TASK 4- CONTINGENCY - Additional work as required to perform various iterations of water rate calculations.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO

AND RAFTALIS FINANCIAL CONSULTANTS, INC.

FOR THE PROVISION OF WATER RATE STUDY SERVICES

TERM:

FROM: 01/01/2019

TO: 12/31/19

SCHEDULE OF FEES:

TASK	No. Meetings	Task Description	Hourly Rate		FC	Admin	Total	Total Fees
			SG	STG				
			\$ 280	\$ 230	\$ 175	\$ 75		
1		Rate Calculation and Customer Impacts	2	18	12		32	\$ 7,545
2		Draft and Final Reports	2	8	24	4	38	\$ 7,280
3	2	Public Meetings/Workshops	LS		LS			\$ 14,500
4		Contingency						\$ 5,366
								\$ 34,691

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND RAFTELIS FINANCIAL CONSULTANTS, INC.**

FOR THE PROVISION OF WATER RATE STUDY SERVICES

TERM:

FROM: 01/01/2019

TO: 12/31/2019

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

Travel and Per Diem Payment are part of Task 3 "Public Meetings/Workshops" identified in Attachment A and Attachment B of this contract.

ATTACHMENT D

**AGREEMENT BETWEEN COUNTY OF INYO
AND RAFTELIS FINANCIAL CONSULTANTS, INC.
FOR THE PROVISION OF WATER RATE STUDY SERVICES**

TERM:

FROM: 01/01/2019 TO: 12/31/2019

SEE ATTACHED INSURANCE PROVISIONS

Specifications 2
Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$500,000 per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limit no less than \$1,000,000 per occurrence.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).**

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

Waiver of Subrogation

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The **Retroactive Date** must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

Verification of Coverage

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



AGENDA REQUEST FORM

BOARD OF SUPERVISORS

COUNTY OF INYO

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Schedule time for
 Closed Session
 Informational

For Clerk's Use Only:

AGENDA NUMBER

25

FROM: Public Works / Road Department

FOR THE BOARD MEETING OF: ~~APR 9~~ 2019

SUBJECT: Resolution adopting projects for the FY 19/20 Road Repair and Accountability Act of 2017 (SB 1); Inyo County allocation from the Road Maintenance and Rehabilitation Account (RMRA)

DEPARTMENTAL RECOMMENDATIONS:

Request your Board:

1. Approve a resolution entitled, "A RESOLUTION OF THE BOARD OF SUPERVISORS, OF THE COUNTY OF INYO, STATE OF CALIFORNIA, IDENTIFYING PROJECTS TO BE FUNDED BY ROAD MAINTENANCE AND REHABILITATION FUNDS PURSUANT TO SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT; and
2. Approve the recommended project lists attached to satisfy the documentation requirements to receive SB1, Road Repair and Accountability Act of 2017 funding from the Road Maintenance and Rehabilitation Account (RMRA); and
3. Approve the Public Works department to apply for and submit all required documentation to receive the Inyo County allotment of SB 1, Road Repair and Accountability Act of 2017 funding; and
4. Authorize the Public Works Department Head, or his designee, to sign for the RMRA funding and all associated supporting documents.

CAO RECOMMENDATIONS:

SUMMARY DISCUSSION:

On April 28, 2017, the Governor signed Senate Bill (SB) 1, to address basic road maintenance, rehabilitation and critical safety needs on both the State highway and local streets and roads. An overview and details of the Senate Bill were outlined at the Board meeting of May 9, 2017. To recap, SB 1, or The Road Repair and Accountability Act of 2017, increased the per gallon fuel excise taxes; increased the diesel fuel sales tax; increased vehicle registration fees; and provides inflationary adjustments to tax rates in future years. The collected revenue is to be placed in the State Road Maintenance and Rehabilitation Account (RMRA) for allocation.

State law requires Counties and Cities to establish eligibility for SB 1 Road Maintenance and Rehabilitation Account (RMRA) funding on an annual basis by submitting a list of proposed projects to the California Transportation Commission (CTC). Project lists do not have to be adopted within a County or City budget, but project lists do have to be adopted by resolution at a regular public meeting. Projects that are proposed do not need to be completed in that fiscal year, and can be amended or continued in subsequent project proposals.

On October 3, 2017 Public Works brought a Resolution to your Board for approval to be eligible for funding from the Road Maintenance and Rehabilitation Account (RMRA), Resolution #2017-48. This resolution identified four projects for the 2017-18 funding cycle; #1- Rubberized Crack fill, various Countywide locations identified; #2- Road Striping and Pavement Markings, various Countywide locations identified; #3- Cold Mix Overlay, Laws Poleta Road; #4- Cold Mix Overlay, Dolomite loop Road.

Of the four projects identified, #1- Rubberized Crack fill and #2- Road Striping and Pavement Markings are currently in progress, and were included as Phase Two of these projects in the requested projects for 2018-19.

Funding and reporting uncertainties had delayed the start of projects #3 and #4, the Cold Mix overlays (Laws Poleta Road and the Dolomite Loop Road) for the 2017-18 cycle, but are now underway in the 2018-19 funding cycle and expected to start Spring of 2019, as well as the continuation of Phase II Rubberized Crack fill and Road Striping and Pavement Markings. In the 2018-19 SB1 cycle, there was the addition of project #5- South Lake Road reconstruction matching funds for the Federal Lands Access Grant. Project number five, South Lake Road reconstruction matching funds can be held over for its anticipated use in the 2019-20 SB1 funding cycle, if needed, depending on the State Transportation Improvement Program (STIP) funding availability. The South Lake Road project is expected to begin in 2019/2020. If the STIP match funding for the South Lake Road Project becomes available, the SB1 funds will be used for another SB1 project.

Public Works is bringing a Resolution and project lists for the 2019-20 SB1 funding cycle as required in the SB1, Road Repair and Accountability Act, to be eligible for Road Maintenance and Rehabilitation Account (RMRA) funding.

The requested projects in this SB1 funding cycle request a continuation of two of the ongoing maintenance projects, #1- Rubberized Crack fill, various Countywide locations identified, phase III, and #2- Road Striping and Pavement Markings, various Countywide locations identified, Phase III. It is anticipated that these two projects will be reoccurring for as long as the need requires. Project #5- South Lake Road reconstruction matching funds for the Federal Lands Access Grant is also resubmitted as Phase II in anticipation of making up any short fall from the 2018-19 SB1 cycle funding. With the exact match amount still to be determined, it is prudent to have this project continue in the 2019-20 SB1 resolution.

New projects that are to be submitted this SB1 funding cycle include: #6- Meadow Creek I/II, Lazy A Sidewalk improvement, Phase I; #7- First St./ West Jay Street improvement project; #8- Onion Valley Road Storm Damage repair; #9- Cactus Flat Road repair; #10- North Round Valley Bridge Repair, State matching funds requirement; #11- Panamint Valley Road Cold Mix Overlays, various locations., and #12- Old Spanish Trail Road Cold Mix Road Overlays, various locations.

As mentioned above, State law requires Counties and Cities to establish eligibility for SB 1 Road Maintenance and Rehabilitation Account (RMRA) funding on an annual basis by submitting a list of proposed projects to the California Transportation Commission (CTC) approved by Resolution. Projects that are proposed do not need to be completed in that fiscal year, and can be amended or continued in subsequent project proposals. There is also no requirement to place estimated project costs, or match commitments on each proposal; this is done for the Boards pleasure for reference and scope of the projects proposed. There is a requirement for complete SB1 fund accounting of allotted revenues at the end of each fiscal year and to ensure the funds were correctly applied to approved projects. It is entirely possible that an agency can change what it expends on a project for any number of reasons, the State recognizes these variables, and allows this flexibility.

With that flexibility considered, the proposed projects presented exceeds the estimated \$2,740,595 for the 2019-20 SB1 funding cycle, this proposal addresses some required and committed expenses, and allows for some project flexibility throughout the County and infrastructure needs.

ALTERNATIVES:

Your Board could choose to not approve the resolution and project lists; however, this is not recommended as the County would not be entitled to the SB1 funding. The addition of this funding will allow for continuing improvements to the County's road infrastructure and provide safer roads for the traveling public.

OTHER AGENCY INVOLVEMENT:

County Counsel

FINANCING:

This funding and estimated project costs for salaries and materials will be included in the FY 2019-20 Road Budget, pending Board approval of Road Projects.

APPROVALS

COUNTY COUNSEL:

AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)

Grace Chuchla

Approved: YES Date 3/22/19

AUDITOR/CONTROLLER

ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)

Approved: _____ Date _____

PERSONNEL DIRECTOR

PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

miel h

Date: 3/25/19

RESOLUTION NO. _____

**RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2019-20 FUNDED BY
SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of Inyo County are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the County of Inyo must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the County of Inyo, will receive an estimated \$2,740,595 in RMRA funding in Fiscal Year 2019-20 from SB 1; and

WHEREAS, this is the third year in which the County of Inyo is receiving SB 1 funding and will enable the County of Inyo to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the funding from SB 1 will help the County of Inyo maintain and rehabilitate numerous streets and roads with several treatments such as rubberized crack filling, patching, and overlays, North Round Valley bridge reconstruction, add active transportation infrastructure throughout the Inyo County this year; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that County streets and roads are in an at risk condition and this revenue will help us increase the overall quality of our road system, preserve existing infrastructure, thus allowing the strategic improvement of poor roads and sidewalks; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will provide the ability to catch up on delayed and postponed repairs that will benefit the residents of the County of Inyo, as well as the traveling public that comes to, and through, the Owens Valley.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the Board of Supervisors of the County of Inyo, State of California, as follows:

1. The foregoing recitals are true and correct.
2. The following list of proposed projects will be funded in-part or solely with fiscal year 2019-20 Road Maintenance and Rehabilitation Account revenues:

Project #6, Phase I, Meadow Creek I/II, Lazy A Subdivision Sidewalk Improvement

Project #7, First St. / West Jay Street improvement project

Project #8, Onion Valley Road Storm Damage repair

Project #9, Cactus Flat Road Repair

Project #10, North Round Valley Bridge Replacement, Birchim Lane improvement; matching funds requirement

Project #11, Phase I, Panamint Valley Road Cold Mix Overlays, various locations

Project #12, Phase I, Old Spanish Trail Road Cold Mix Road Overlays, Various Locations

[See Attachments]

3. The following previously proposed and adopted projects may utilize fiscal year 2019-20 Road Maintenance and Rehabilitation Account revenues in their delivery. With the relisting of these projects in the adopted fiscal year resolution, the City/County is reaffirming to the public and the State our intent to fund these projects with Road Maintenance and Rehabilitation Account revenues as needed:

Project # 1, Phase III, Rubberized Crack fill / Patching Project

Project # 2, Phase III, Road Striping and Pavement Markings Project

Project #5, South Lake Road - Potential Bridge Funding for Grant Match

[See Attachments]

PASSED AND ADOPTED by the Board of Supervisors of the County of Inyo, State of California this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rick Pucci, Chairperson
Inyo County Board of Supervisors

ATTEST:

Clint Quilter

Clerk of the Board

By: _____
Darcy Ellis, Assistant

Estimated County Highway User Tax Account Revenues - FY 2019-20					SB 1 Revenues		
COUNTY	HUTA 2103	HUTA 2104	HUTA 2105	HUTA 2106	Loan Repayment	RMRA	TOTAL
ALAMEDA	\$8,726,863	\$13,304,599	\$6,045,583	\$445,582	\$1,153,905	\$16,936,192	\$46,612,725
ALPINE	\$166,524	\$296,032	\$140,292	\$23,050	\$22,019	\$323,173	\$971,091
AMADOR	\$806,619	\$635,444	\$485,720	\$188,826	\$106,655	\$1,565,403	\$3,788,667
BUTTE	\$2,850,333	\$2,403,983	\$1,716,378	\$433,731	\$376,884	\$5,531,631	\$13,312,940
CALAVERAS	\$1,228,225	\$880,217	\$739,597	\$308,642	\$162,401	\$2,383,612	\$5,702,695
COLUSA	\$964,007	\$603,848	\$580,494	\$115,090	\$127,465	\$1,870,845	\$4,261,748
CONTRA COSTA	\$7,311,178	\$10,715,204	\$5,127,734	\$947,406	\$966,717	\$14,188,776	\$39,257,015
DEL NORTE	\$498,508	\$302,265	\$300,185	\$106,375	\$65,915	\$967,453	\$2,240,702
EL DORADO	\$2,603,675	\$3,522,876	\$1,900,754	\$800,233	\$344,270	\$5,052,943	\$14,224,750
FRESNO	\$8,902,989	\$8,541,335	\$5,361,090	\$1,156,891	\$1,177,194	\$17,278,000	\$42,417,499
GLENN	\$1,172,643	\$735,948	\$706,127	\$132,143	\$155,052	\$2,275,743	\$5,177,657
HUMBOLDT	\$2,254,622	\$1,600,548	\$1,357,660	\$399,665	\$298,116	\$4,375,537	\$10,286,148
IMPERIAL	\$4,034,529	\$2,315,974	\$2,429,462	\$396,584	\$533,464	\$7,829,796	\$17,539,810
INYO	\$1,412,171	\$1,001,398	\$850,363	\$115,331	\$186,724	\$2,740,595	\$6,306,582
KERN	\$8,324,025	\$7,765,939	\$5,012,457	\$1,890,408	\$1,100,640	\$16,154,406	\$40,247,876
KINGS	\$1,727,770	\$1,185,363	\$1,040,407	\$208,103	\$228,454	\$3,353,077	\$7,743,173
LAKE	\$1,216,827	\$909,911	\$732,733	\$312,787	\$160,894	\$2,361,491	\$5,694,643
LASSEN	\$1,183,839	\$978,044	\$712,869	\$123,174	\$156,533	\$2,297,472	\$5,451,932
LOS ANGELES	\$52,607,177	\$79,641,731	\$36,223,991	\$2,746,764	\$6,955,959	\$102,094,561	\$280,270,184
MADERA	\$2,536,070	\$1,485,327	\$1,527,139	\$451,992	\$335,331	\$4,921,741	\$11,257,599
MARIN	\$1,972,109	\$2,489,171	\$1,224,810	\$296,558	\$260,761	\$3,827,265	\$10,070,674
MARIPOSA	\$784,500	\$547,729	\$472,401	\$127,915	\$103,730	\$1,522,477	\$3,558,752
MENDOCINO	\$1,823,181	\$1,215,639	\$1,097,860	\$385,503	\$241,069	\$3,538,241	\$8,301,494
MERCED	\$3,375,029	\$2,374,344	\$2,032,333	\$551,207	\$446,262	\$6,549,907	\$15,329,081
MODOC	\$1,154,613	\$873,494	\$695,271	\$61,101	\$152,668	\$2,240,754	\$5,177,902
MONO	\$854,754	\$812,304	\$514,705	\$31,172	\$113,019	\$1,658,818	\$3,984,772
MONTEREY	\$3,787,291	\$3,988,369	\$2,280,583	\$844,065	\$500,773	\$7,349,982	\$18,751,064
NAPA	\$1,394,772	\$1,500,149	\$839,887	\$315,555	\$184,423	\$2,706,830	\$6,941,616
NEVADA	\$1,426,218	\$1,541,223	\$858,822	\$311,016	\$188,581	\$2,767,856	\$7,093,716
ORANGE	\$18,072,129	\$28,641,995	\$12,920,249	\$744,051	\$2,389,579	\$35,072,515	\$97,840,518
PLACER	\$3,808,564	\$5,597,159	\$2,810,655	\$795,446	\$503,586	\$7,391,267	\$20,906,678
PLUMAS	\$949,793	\$1,085,421	\$571,935	\$146,822	\$125,586	\$1,843,260	\$4,722,817
RIVERSIDE	\$14,893,927	\$20,323,399	\$9,564,689	\$1,430,701	\$1,969,343	\$28,904,591	\$77,086,650

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project # 1, Phase III

Rubberized Crack fill / Patching Project

TR# 18-002

Description;

Rubberized Crack Fill and pot hole patching to seal asphalt pavement to prevent water intrusion to the subgrade, protecting the subgrade from erosion and causing pavement failure.

Location/s;

County wide, the Inyo County Road Route system, where several roads are grouped in areas, or 'zones' will be used for identification of the residential streets, outlying roads, and individual roads receiving the crack fill / patching application. Not every road in each route will warrant the application, the routes identified below are both residential and outlying roads, roads within the routes will receive some application, towns and routes are as follows;

- Bishop Area; Routes #1001 through #1006
- Big Bine Area; Routes #2001, through #2004
- Independence Area; Routes #3001 through #3005, and #3008
- Lone Pine Area; Routes #4001 through #4008
- Tecopa/Shoshone Area; Routes #5002 through #5006

Estimated useful life;

2-5 years, Rubberized crack sealing has the benefit of moving with the asphalt as it expands and contracts with the seasons, extending its service life. Eventually the movement will exceed the adhesion of the product and will fail, requiring another treatment.

Anticipated construction date;

Winter 2019/Spring 2020, Depending on weather conditions, application can occur as long as the road surface is dry. The preferred application time is in the colder months, when the cracks can accept more material.

Costs for this project are estimated to be;

Material cost for the rubberized crack sealing is \$200,000

Labor Costs \$230,000

Equipment rental costs \$40,000

T/ \$ 470,000

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project # 2, Phase III

Road Striping and Pavement Markings Project

TR# 18-002

Description;

Road striping/Pavement markings, application of Center line, Fog line and Bike Lane striping as well as pavement markings such as 'Stop'(s), Crosswalks, Speed Limit (s) and School/Bus zones.

Location/s;

County wide, the Inyo County Road Route system, where several roads are grouped in areas, or 'zones' will be used for identification of the residential streets, outlying roads, and the individual roads receiving the marking application. . Not every road in each route will require maintenance of markings, the routes identified below are both residential and outlying roads, roads within the routes will receive some application.

Marking application will follow the rubberized crack seal operation on the same routes;

- Bishop Area; Routes #1001 through #1006
- Big Bine Area; Routes #2001, through #2004
- Independence Area; Routes #3001 through #3005, and #3008
- Lone Pine Area; Routes #4001 through #4008
- Tecopa/Shoshone Area; Routes #5002 through #5006

Estimated useful life;

1 – 2 Years, Striping and painting operations are generally refreshed annually, as time and conditions allow.

Anticipated construction date;

Spring/Summer 2019-20

Costs for this project are estimated to be;

Materials, (White/Yellow paint and safety spheres) \$60,000

Labor Cost \$160,000

T/ \$220,000

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project # 5,

South Lake Road - Potential Bridge Funding for Grant Match

TR#

Description;

On South Lake Road, the project will pulverize and reclaim the existing pavement and portion of the existing subgrade for use as a new base course and overlay with a new asphalt concrete pavement section on 6.9 miles of South Lake Road, as well as minor widening along the first 2.1 miles. The project includes grading, pulverize existing pavement, minor drainage structures, major drainage structures, slope stabilization, rock scaling, placement of crushed aggregate base and asphalt pavement, signing, striping, and other safety-related features necessary to meet current design practice.

In December 2014, Inyo County submitted a Federal Lands Access Program grant application for the South Lake Road project. The competitive grant application proposed a 12% match. The Federal Highway Administration implements the project. The environmental and design components of the project have been completed. This project will leverage about \$10 million in federal funding. The County proposed to fund the match for the project through the 2018 State Transportation Improvement Program (STIP). The California Transportation Commission programmed the project, but moved it back two years because of over-programming in the early years of the STIP. The County will attempt to still deliver the project on time through the STIP. If those funds are not available in a timely fashion, the County will use SB 1 funds to deliver the project.

Location;

South Lake Road (#2022) between US 168 and the South Lake trailhead parking area, approximately 12 miles Southwest of Bishop, California.

Estimated useful life;

20 Years.

Anticipated construction date;

04/01/2019-10/31/2019

Costs for this project are estimated to be;

Construction Match

\$1,369,000

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #6, Phase I

Meadow Creek I/II, Lazy A Subdivision Sidewalk Improvement

TR#

Description;

This will be a multi-phase project consisting of grinding, removal, repair, or replacement of various sections of failing sidewalk sections including; substrate stabilization, tree/root removal, and mailbox relocation/s as needed to comply with ADA requirements.

Location/s;

Meadow Creek I, Meadow Creek II, and the Lazy A subdivisions are located approximately 2 miles North West of the City of Bishop, in Inyo County. This project will be located in Route #1004, in the Inyo County Road Route system, and over the life of this project will some or all of the sidewalk sections of 35 of the 50 roads identified in this Route.

Estimated useful life;

20 years

Anticipated construction date;

Fall 2019/Spring 2020

Costs for this project are estimated to be;

2019/20 Phase I	\$150,000
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Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #7

First St. / West Jay Street improvement project

TR#

Description;

This will be a County contribution for improvements that the City of Bishop will be performing to a County Road. At Inyo County's request, the City of Bishop will include new subbase, asphalt, curb and gutter in a City utility capital improvement project that encroaches on County right of way, this will maximize efficiencies and contract cost savings by having needed repair and maintenance completed under one contract.

With Board of Supervisors approval, it is anticipated that First Street will be renamed West Jay Street to match the existing East Jay Street (a City of Bishop street) that is directly East of this project, this renaming would also prevent confusion with an existing 1st Street in the City of Bishop system, as well as another First Street, an Inyo County Road, within 10 miles.

Location/s;

First Street (West Jay Street) is located south of the City of Bishop, West of US395 (Main St.) and shares the City of Bishop/Inyo County Boundary.

Estimated useful life;

20 years

Anticipated construction date;

Summer/Fall 2019

Costs for this project are estimated to be;

Inyo County contribution	\$235,000
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Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #8

Onion Valley Road Storm Damage repair

TR#

Description;

In 2017 a storm system damaged a West bound section of Onion Valley Road (#3047) a County Road, approximately 13 miles West of the US395 intersection, and one mile from the end of the road where it terminates at a trailhead and pack station. The repair of the damaged section qualified for State of California OES disaster funds at 75% reimbursement of project costs, with a 25% match contribution from the County of Inyo, this is incident #2017-11, 3603 (attached). This project is 1500' in length, and the Engineers estimate for repair, agreed to by the California Office of Emergency Services is estimates at \$626,125. This includes the damaged area, and the area that will be disturbed to transition to existing infrastructure. This project will consist of securing proper environmental permitting, repairing, and replacing, part of an existing drainage system, replace subbase, and pave the damaged section.

Of the OES/Engineers estimate, the County of Inyo 25% contribution is estimated at \$157,000.

Location/s;

Onion Valley Road is located in Inyo County, just West of Independence. The damaged section that will be repaired is 13 miles west of the intersection of Onion Valley Road/Market St. and US395 in Independence.

Estimated useful life;


20 years

Anticipated construction date;

Fall 2019/ Spring 2020

Costs for this project are estimated to be;

25% County contribution requirement; \$157,000

 STATE OF CALIFORNIA Cal OES GOVERNOR'S OFFICE OF EMERGENCY SERVICES California Disaster Assistance Act Damage Survey Report (DSR) 3603	STATE DISASTER NUMBER: 2017-11	FEDERAL DISASTER #: N/A
	STATE APPLICANT ID NUMBER: 027-00000	FEDERAL PA ID #: NA
	STATE INCIDENT PERIOD: 03/01/17 to 07/30/17	
	TYPE OF DISASTER: <input type="checkbox"/> Governor's Proclamation or <input checked="" type="checkbox"/> Director's Concurrence <input type="checkbox"/> Earthquake or <input type="checkbox"/> Flood/Winter Storm or <input type="checkbox"/> Fire <input checked="" type="checkbox"/> Other (Please Specify Type): Snow Melt	
TYPE OF CDAA DSR: <input type="checkbox"/> Emergency Work or <input checked="" type="checkbox"/> Permanent Work CATEGORY C ROAD SYSTEMS AND BRIDGES		
SUPPLEMENT TO CDAA DSR #:		

SUBGRANTEE NAME: Inyo County	
FACILITY/SITE ADDRESS OR DIRECTIONS (Include City, County of Site):	
Onion Valley Rd. Independence CA, Inyo County	COUNTY: Inyo

DESCRIBE DISASTER RELATED DAMAGE TO THE FACILITY/SITE:

Unusually high run-off, caused by excessive amounts of snow from the January-February 2017 Storms led to severe scouring under the westbound lane of Onion Valley Rd. approximately 650 yards east of the Onion Valley Campground. The northern tributary to Independence Creek jumped its banks when flows exceeded the capacity of the culvert under Onion Valley Rd. The overflow destroyed the shoulder and damaged the roadway for 500 feet, at which point the flow passed through a subsequent culvert.

SCOPE OF WORK:

Work to Be Completed:
 Permanent restoration construction will involve removing the asphalt from the damaged section of roadway, over-excavating and rebuilding the roadway (including sub-base, under-pavement drainage, class II base and hot mix asphalt (3" thick). The under-pavement drainage includes a layer of class I permeable material and edge drains (3" slotted plastic pipe). Preliminary engineering and construction engineering will include engineering design of the damaged roadbed and drainage, environmental clearances, material testing, and coordination with various agencies, construction management and project documentation.

Is this Facility Eligible for Federal Funds? <input type="checkbox"/> ES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		Federal DSR/PW Number: N/A
Federal Program: <input type="checkbox"/> FEMA <input type="checkbox"/> HRCS <input type="checkbox"/> RWA <input type="checkbox"/> ISACE <input type="checkbox"/> OTHER		Federal DSR/PW \$ Amount: N/A
Is this an Historic Structure? <input type="checkbox"/> ES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	On National Register? <input type="checkbox"/>	50+ Years Old? <input type="checkbox"/>
Significant Effect on Environment? <input type="checkbox"/> ES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	Is Project Cat-X or Stat-X? <input type="checkbox"/> ES <input type="checkbox"/> NO <input checked="" type="checkbox"/> OTHER	
Is there Insurance for Damages? <input type="checkbox"/> ES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	Insurance Recovery: \$ 0	Ins. Deductible: 50
Work done by Force Account Labor? <input type="checkbox"/> ES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	Percentage of Work Completed at Inspection: 10%	
Total Eligible Labor, Equipment, Materials and Contract costs from Cost Worksheet:		TOTAL COSTS: \$626,125.00
OES Applicant Services Rep. Name Marcia Burchiel	OES ASR Signature <i>UNAVAILABLE</i>	Date of Site Inspection: 1/25/2018 Date of DSR Submission to AC: 1/25/2018 Recommend Eligible? <input checked="" type="checkbox"/> ES <input type="checkbox"/> NO
Name of Local Representative Kelley Williams	Representative's Signature Concur by Phone	Concur with Scope of Work? <input checked="" type="checkbox"/> ES <input type="checkbox"/> NO Contact Telephone Number: (760) 878-0292
Name of Reviewer/Manager Peter Crase	Reviewer/Manager Signature <i>P Crase</i> 1/29/18	Date Reviewed: 01/25/18 Recommend Eligible? <input checked="" type="checkbox"/> ES <input type="checkbox"/> NO
Public Assistance Officer David Gillings	PAO Signature <i>D Gillings</i> 2/2/18	See attachment explaining changes or denial Approved? <input checked="" type="checkbox"/> ES <input type="checkbox"/> NO Amount \$: 626,125.00

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #9

Cactus Flat Road Repair

TR#

Description;

This project will consist of an asphalt overlay of 1500' x 20' of damaged pavement on Cactus Flat Road #5024. The Department of Water and Power, City of Los Angeles (DWP), will be doing a realignment of Cactus Flat Road, a County Road, to allow DWP to perform infrastructure upgrades. Upon completion of the realignment, the County will perform an asphalt overlay on a 1500' section of Cactus Flat East of the DWP project boundary.

Location/s;

Cactus Flat Road is located in Inyo County, just south of Olancho. The section that will be repaired is approximately 5 miles west of the intersection of Cactus Flat Road and US395, 5 miles south of Olancho.

Estimated useful life;

20 years

Anticipated construction date;

Spring 2020

Costs for this project are estimated to be;

Inyo Engineers estimate \$80,000

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #10

North Round Valley Bridge Replacement, Birchim Lane improvement;
State matching funds requirement

TR#

Description;

In 2017, a storm system destroyed a County bridge located in North Round Valley Road #1003, a County Road. This bridge was on the primary access route for the community of 40 Acres, located at the North end of the paved section of North Round Valley Road, approximately one mile north of the bridge. This bridge replacement qualified for State of California OES disaster funds at 75% reimbursement of project costs, incident #2017-11; 3602 (attached). Also included in this incident is the repair and stabilization of Birchim Lane #1006, a County Road. Birchim Lane is a secondary primitive road that allows access to the effected community, and has now become the primary access to the community of 40 Acres. Birchim Lane has also qualified under the OES Disaster incident and is eligible for the 75% reimbursement of project cost from the State of California. Environmental and bridge design are currently underway for the North Round Valley Bridge, as well as design and repair of Birchim Lane. The Office of Emergency Services has approved the Engineers estimate of \$3,400,000 for the North Round Valley Bridge Replacement, as well as \$600,000 for the Birchim Lane repair and stabilization. It is anticipated that the State of California OES will fund \$3,000,000; Inyo County will provide the 25% contribution of \$1,000,000 with SB1 funds. Due to the anticipated two to three year construction schedule, it is anticipated that the County contribution will be divided over the FY2019-20 and FY2020-21 SB1 funding cycles, at \$500,000 each cycle.

Location/s;

North Round Valley Road, with the damaged bridge, and Birchim Lane, that intersects North Round Valley Road, is located in Inyo County, 15 miles North West of Bishop.

Estimated useful life;

30 – 50 years for North Round Valley bridge reconstruction, 10 – 15 years for Birchim Lane repair and stabilization

Anticipated construction date;

Spring 2020

Costs for this project are estimated to be;

25% County contribution requirement; \$1,000,000, (Anticipate dividing between FY2019-20/FY2020-21 SB1 cycles)



3602

STATE DISASTER NUMBER: 2017-11 FEDERAL DISASTER #: N/A
 STATE APPLICANT ID NUMBER: 027-00000 FEDERAL PA ID #: NA
 STATE INCIDENT PERIOD: 03/01/17 to 07/30/17
 TYPE OF DISASTER: Governor's Proclamation or Director's Concurrence
 Earthquake or Flood/Winter Storm or Fire
 Other (Please Specify Type): Snow Melt
 TYPE OF CDAASR: Emergency Work or Permanent Work
 CATEGORY: C ROAD SYSTEMS AND BRIDGES
 SUPPLEMENT TO CDAASR #:

SUBGRANTEE NAME: Inyo County
 FACILITY/SITE ADDRESS OR DIRECTIONS (Include City, County of Site):
North Round Valley Road-Pine Creek Bridge, Round Valley CA, Inyo County
 COUNTY: Inyo

DESCRIBE DISASTER RELATED DAMAGE TO THE FACILITY/SITE:
 Excessive amounts of snow caused by the January-February 2017 Storms Disaster and a rain event in the mountains, produced extraordinary high flows in Pine Creek resulting in severe erosion to the south bank and bridge failure. Pine Creek flows scoured away approximately 50 feet of embankment and roadway south of the southern bridge abutment. Scouring beneath the footing of the southern abutment compromised the integrity of the bridge structure resulting in settling of the southern abutment and pulling the bridge deck away from the north abutment.

SCOPE OF WORK:
 Work to Be Completed:
 Permanent restoration will include removing damaged bridge structure and debris from the Pine Creek channel. Constructing a new 75' by 35' Reinforced Concrete Box Girder Bridge with abutments, constructing approach slabs, roadwork and guard railing, installing and placing rip rap for slope and scour protection. Traffic has been detoured to Birchim Lane as an alternate route until the bridge can be constructed (duration of 2-4 years). Birchim Lane will require work/maintenance to safely address the increased volume of traffic for this duration. Preliminary Engineering and Construction Engineering will include bridge design, surveying, geotechnical studies, hydraulic studies, environmental and archaeological clearances, material testing, coordination with various regulatory agencies, construction management and project documentation.

Is this Facility Eligible for Federal Funds? YES NO UNKNOWN Federal DSR/PW Number: N/A
 Federal Program: FEMA HUD HHS HSA HRSA IHS IIR IS ITR ITRR ITRR-2 ITRR-3 ITRR-4 ITRR-5 ITRR-6 ITRR-7 ITRR-8 ITRR-9 ITRR-10 ITRR-11 ITRR-12 ITRR-13 ITRR-14 ITRR-15 ITRR-16 ITRR-17 ITRR-18 ITRR-19 ITRR-20 ITRR-21 ITRR-22 ITRR-23 ITRR-24 ITRR-25 ITRR-26 ITRR-27 ITRR-28 ITRR-29 ITRR-30 ITRR-31 ITRR-32 ITRR-33 ITRR-34 ITRR-35 ITRR-36 ITRR-37 ITRR-38 ITRR-39 ITRR-40 ITRR-41 ITRR-42 ITRR-43 ITRR-44 ITRR-45 ITRR-46 ITRR-47 ITRR-48 ITRR-49 ITRR-50 ITRR-51 ITRR-52 ITRR-53 ITRR-54 ITRR-55 ITRR-56 ITRR-57 ITRR-58 ITRR-59 ITRR-60 ITRR-61 ITRR-62 ITRR-63 ITRR-64 ITRR-65 ITRR-66 ITRR-67 ITRR-68 ITRR-69 ITRR-70 ITRR-71 ITRR-72 ITRR-73 ITRR-74 ITRR-75 ITRR-76 ITRR-77 ITRR-78 ITRR-79 ITRR-80 ITRR-81 ITRR-82 ITRR-83 ITRR-84 ITRR-85 ITRR-86 ITRR-87 ITRR-88 ITRR-89 ITRR-90 ITRR-91 ITRR-92 ITRR-93 ITRR-94 ITRR-95 ITRR-96 ITRR-97 ITRR-98 ITRR-99 ITRR-100 ITRR-101 ITRR-102 ITRR-103 ITRR-104 ITRR-105 ITRR-106 ITRR-107 ITRR-108 ITRR-109 ITRR-110 ITRR-111 ITRR-112 ITRR-113 ITRR-114 ITRR-115 ITRR-116 ITRR-117 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Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #11, Phase I

Panamint Valley Road Cold Mix Overlays, various locations

TR#

Description;

Panamint Valley Road is 14 miles long and located in the Southern end of Inyo County. Panamint Valley Road was constructed in the early 50's and predominantly a 'mixed in place' road. This road is heavily used by visitors and tour busses to Death Valley National Park, as it is the most direct route from the San Bernardino/Inland empire area. This project will consist of several large grader patches of various lengths and widths, at a depth of approximately 2" to repair failing road sections and provide a safe road surface for the traveling public. It would be impracticable to identify where each of the patches will be over the entire length of 14 miles, the estimated material quantity is 2,000 tons over 7 - 10 locations.

Panamint Valley Road is Part of Route #4008 in the Inyo County Road Route system

Location/s;

Panamint Valley Road is located in the Southern section of Inyo County; it connects US190 in Panamint Valley (Adjacent to the West edge of Death Valley National Park) , and Trona-Wildrose Road, a County Road, to the South near the San Bernardino County line.

Estimated useful life;

3 -7 Years depending on traffic volume and loads

Anticipated construction date;

Fall 2019/ Spring 2020

Costs for this project are estimated to be;

County Forces;

Material and Labor \$500,000

Road Repair and Accountability Act FY 2019/2020 SB 1 Projects

Project #12, Phase I

Old Spanish Trail Road Cold Mix Road Overlays, Various Locations.

TR#

Description;

Old Spanish Trail Road # 5007, a County Road, is 30 miles long and located in the South East end of Inyo County, next to the State of Nevada. Old Spanish Trail Road construction dates are unknown, most likely 1920's-40's and predominantly a 'mixed in place' road with some newer sections that were reconstructed as needed. This road is heavily used to access the Dumont Dunes recreation area and the East access to Death Valley National Park, as it is the most direct route from Las Vegas and surrounding areas. This project will consist of several large grader patches of various lengths and widths, at a depth of approximately 2" to repair failing road sections and provide a safe road surface for the traveling public. It would be impracticable to identify where each of the patches will be over the entire length of 30 miles, but the intended direction for repairs will be west to east from SR127 to the Nevada State Line, with the focus on the first ten miles. The estimated material quantity is 2,000 tons over 5 - 7 locations.

Old Spanish Trail Road is Part of Routes #5003, #5004, #5005, and #5006 in the Inyo County Road Route system

Location/s;

Old Spanish Trail Road is located in the South East section of Inyo County; it connects to SR127 Approximately 10 South of the town of Shoshone (Adjacent to the East edge of Death Valley National Park) , and the Nevada State line, at the Southern edge of Pahrump, NV.

Estimated useful life;

3 -7 Years depending on traffic volume and loads

Anticipated construction date;

Spring 2020

Costs for this project are estimated to be;

County Forces;

Material and Labor \$500,000



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 26

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: Clint G. Quilter, County Administrator/Clerk of the Board
BY: Darcy Ellis, Assistant Clerk of the Board

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Resolution changing location of regular Board meeting of April 16

DEPARTMENTAL RECOMMENDATION: Request Board approve Resolution No. 2019-17, titled, "A Resolution of the Board of Supervisors of the County of Inyo, State of California, Changing the Location of the Board's April 16, 2019 Regular Meeting," and authorize the Chairperson to sign.

SUMMARY DISCUSSION: The Board of Supervisors meeting of April 16, 2019 is scheduled to be held in Furnace Creek and Tecopa as part of the Board's annual trip to Southeast Inyo County. Staff plans to include on the agenda the introduction of two ordinances that would amend County Code to provide consistency with other chapters of Inyo County Code relating to commercial cannabis activity.

Government Code Section 25131 says that introduction or adoption of any ordinance must take place at a regular meeting or at an adjourned regular meeting of the board and Government Code Section 25081 says regular board meetings take place in the *County seat*. However, Government Code Section 25081 also says the board may change the location of a regular meeting by resolution as long as the change is posted no later than the prior regular meeting (today, April 9).


In order to allow for the consideration of the aforementioned ordinances at the April 16 meeting in Southeast Inyo in accordance with state law, County Counsel has drafted the attached resolution changing the location of the regular Board of Supervisors meeting to Timbisha Tacos at 1 p.m. in Furnace Creek and the Community Center at 4 p.m. in Tecopa.

ALTERNATIVES: The Board could choose not to approve the resolution but then the ordinances could not be placed on the April 16 agenda as planned.

OTHER AGENCY INVOLVEMENT: County Counsel

FINANCING: N/A

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>4/3/19</u>
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
 (Not to be signed until all approvals are received)



Date: 03/04/19

RESOLUTION NO. 2019-__

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF INYO, STATE OF CALIFORNIA, CHANGING THE LOCATION
OF THE BOARD'S APRIL 16, 2019 REGULAR MEETING**

WHEREAS, pursuant to Government Code Section 25081, the Board wishes to change the location of its April 16, 2019, regular meeting;

NOW, THEREFORE, BE IT RESOLVED by the Inyo County Board of Supervisors that the location of the Board's April 16, 2019, regular meeting is hereby changed from Independence (the county seat) to the following other places within the county:

- 1:00 p.m. at Timbisha Tacos (the Restaurant at the Timbisha Shoshone Reservation), 900 Indian Village Road, Furnace Creek, CA 92328; and
- 4:00 p.m. at Hurlbutt-Rook Community Hall, 405 Tecopa Hot Springs Road, Tecopa, CA 92389.

Notice of the location change shall be posted by the Clerk in a location that is freely accessible to the public no later than April 9, 2019 (the prior regular meeting of the Board).

PASSED AND ADOPTED this day of , 2019 by the following vote:

AYES :

NOES :

ABSTAIN:

ABSENT:

Chair, Board of Supervisors

ATTEST: Clint G. Quilter
 Clerk of the Board

By: _____
 Darcy Ellis, Assistant



AGENDA REQUEST FORM
 BOARD OF SUPERVISORS
 COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 27

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time
 Closed Session
 Informational

FROM: Recycling & Waste Management
FOR THE BOARD MEETING OF: April 9, 2019
SUBJECT: Waste Hauler Franchise Agreement

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the Franchise Agreements with the County's waste haulers.

SUMMARY DISCUSSION:

Public Resources Code Section 40059 authorizes your Board to determine aspects of solid waste handling which are of local concern. This includes the authority to grant franchises to solid waste haulers.

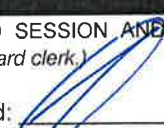
At your April 2nd meeting a draft of the franchise agreements was presented to your Board for review. It is requested that your Board approve the agreements at today's meeting.


ALTERNATIVES:

Your Board could choose not to approve the franchise agreement. The current permit system will then remain in place.

FINANCING:

If the franchise agreement is approved, it is anticipated that there will be negligible change in the County's expenses or revenues.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved:  Date <u>04/09/2019</u>
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:  4/11/19
 (Not to be signed until all approvals are received) Date

(The Original plus 14 copies of this document are required)

FRANCHISE AGREEMENT
BETWEEN THE COUNTY OF INYO
AND
[FRANCHISEE]
FOR COLLECTION OF SOLID WASTE
FROM RESIDENTIAL AND COMMERCIAL CUSTOMERS
WITHIN INYO COUNTY

Commencement Date: May 1, 2019

Expiration Date: December 31, 2026

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This Agreement (“**Agreement**”) is made and entered into by and between the County of Inyo, a political subdivision of the State of California, (the “**County**”) and [FRANCHISEE] (“**Franchisee**” and together, the “**Parties**”), on the later date of execution by the Parties indicated on the execution page of this Agreement.

RECITALS:

WHEREAS, The County is responsible for protection of public health and the environment. The County is authorized and 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; and

WHEREAS, Pursuant to a Joint Powers Agreement between the County and the City of Bishop, those same solid waste handling services within the City of Bishop are managed by the County on behalf of the City of Bishop; and

WHEREAS, The County is liable for its solid waste by virtue of 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; and

WHEREAS, Franchisee has been providing quality and cost-effective solid waste handling services in Inyo County and within the City of Bishop. As an existing provider of solid waste handling services within the unincorporated area of Inyo County and within the City of Bishop, Franchisee has developed customer relationships and experience which will enable it to provide quality services throughout the region; and

WHEREAS, It is desirable to transition from a three-year permit system to a longer-term Franchise Agreement to provide those businesses providing solid waste handling services in Inyo County with certainty as to the long-term viability of their enterprises and to clarify the County’s ability to specify and regulate those services, while continuing to provide the benefits of a non-exclusive permit or franchise system; and,

WHEREAS, It is necessary to require Franchisee to deliver solid waste to a solid waste facility owned or otherwise specified by the County. 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 unless otherwise specified by 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 of the masculine gender include correlative words of the feminine and neuter genders, and vice versa. Words importing the singular number include the plural number, and vice versa, unless the context demands otherwise.

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 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. Examples. Examples are for purpose of illustration only. If any example is ambiguous or is inconsistent or conflicts with the text that it illustrates, the text governs.

e. Specifics No Limitation on Generalities. The mention of any specific duty or liability imposed upon the Franchisee may not be construed as a limitation or restriction of any general liability or duty imposed upon the Franchisee by this Agreement or Applicable Law.

f. Exhibits. The Exhibits to this Agreement are part of this Agreement to the same extent and effect as if included in the text of Articles 1 through 19.

1.03 Integration.

This Agreement 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.

It is the intention of the Board of Supervisors to revise the Inyo County Code to conform to this agreement.

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, in good faith,:

- (1) promptly meet and attempt to 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 declared that invalidity for a judicial construction of the substituted Agreement Provision and any amendments, deletions or additions to this Agreement.

The Parties will split the costs of such application equally.

b. Remaining Provisions. The unconstitutionality, illegality, invalidity, non-binding nature or unenforceability of any Agreement Provision will not affect any of the remaining provisions of this Agreement.

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.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES

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

2.02 County. The County represents and warrants as contained in Exhibit 2.01.

ARTICLE 3. TERM OF AGREEMENT

3.01 Term.

a. Term. The Term of the Agreement commences on the Commencement Date and expires on December 31, 2026, unless terminated earlier.

b. Optional Extension Right. The Franchisee may request to extend the Term for up to two additional 5 year terms commencing, respectively, on January 1, 2027, and terminating December 31, 2031; and commencing January 1, 2032, and terminating on December 31, 2036, and the request(s) for extension shall not be unreasonably withheld, conditioned, or delayed by the County if the Franchisee has maintained compliance and remains in compliance with the terms and conditions of this Agreement, both at the time the option is exercised and on the day that the renewal term is to commence.

Notice of the exercise of said options shall be given to the County, in writing, no earlier than eight (8) months prior to the commencement of each such renewal period, but no later than five (5) months before the commencement of each such renewal period; provided, however, that County shall notify Franchisee if County does not receive the required notice from Franchisee within said time frame, and Franchisee shall have fourteen (14) days from Franchisee's receipt of the County's notice in which to cure the failure to give Franchisee's notice of renewal of the Franchise by serving the County with written notice of Franchisee's request to exercise the renewal option. If, within fourteen (14) days after receipt of the notice from the County, Franchisee fails to deliver to the County written notice exercising its renewal option, then Franchisee will be conclusively presumed to have waived its right to renew the term for the option period and this Agreement shall terminate at midnight on the last day of the term hereof.

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

- All representations, warranties, certifications and acknowledgements;
- Indemnities;
- Performance Obligations to pay County, including any County Payment Obligations;
- Obligations to maintain Records and submit Records and reports to County, including the final Annual Report;
- Confidentiality provisions; and
- Any other rights and obligations of the Parties stated to survive the Term.

3.03 Effect On Prior Agreements. Franchisee is currently one of two Persons authorized to provide solid waste handling services in the Waste Collection Area on a nonexclusive basis via a nonexclusive solid waste Permit as defined in Inyo County Ordinance Code Section 7.08 (the "Permit"). This authorization shall remain in effect, and Franchisee shall continue to collect, transfer, process, recycle, and dispose of solid waste in the Waste Collection Area pursuant to the Permit, until the Commencement Date of this Agreement. Notwithstanding any other provision of this Agreement or of the Permit, upon the Commencement Date, the Permit shall expire and be of no further force or effect, except that:

- Any provisions of the Permit providing for either party to defend and/or indemnify the other party for acts, omissions, or occurrences prior to the Commencement Date, or which provide for insurance or record-keeping duties, shall survive termination of the Permit;
- Any provisions of the Permit expressly stating that they shall survive expiration of the term or termination of the Permit shall survive; and
- Any amounts owed by Franchisee to the County pursuant to the Permit shall remain due and payable in accordance with the terms of the Permit.

Notwithstanding the foregoing, the Permit shall not be deemed terminated by this section, and shall be automatically reinstated, if this Agreement is invalidated as a result of litigation or other proceeding challenging the award of this Agreement.

3.04 Limit on Number of Service Providers. As of the Commencement Date, there are two service providers authorized by non-exclusive Permits issued by the County to provide Solid Waste Handling Services in the Waste Collection Areas. County and Franchisee agree that the number of Persons authorized to provide nonexclusive Solid Waste and Recycling Handling Services in the Waste Collection Areas, whether by franchise or otherwise, will not be increased during the term of this Agreement beyond the existing level of service authorized for the two existing Solid Waste Handling Service providers unless the Board of Supervisors finds and determines, by resolution, the following:

- There is an unmet need for Solid Waste Handling Services and/or Recycling Handling Services as determined by the County and the existing service providers, including Franchisee, are incapable of meeting that need at a reasonable cost to subscribers, as determined by the County;
- OR
- There is an unmet need for Solid Waste Handling Services and/or Recycling Handling Services as determined by the County and the existing service providers, including Franchisee have not demonstrated to the County's satisfaction the ability and/or willingness to provide said service at a reasonable cost to subscribers, as determined by the County.

Before being considered by the Board, a potential new service provider must demonstrate that granting an additional franchise is in the public interest and that the provider will satisfy an unmet need.

The failure of a customer to subscribe to Solid Waste Handling and/or Recycling Handling Services offered by Franchisee shall not constitute an unmet need.

ARTICLE 4. COLLECTION

4.01 Scope of Basic Franchise Services.

a. Service Area and Exclusive Franchised Services. County grants Franchisee the franchise, right and privilege to offer to provide Franchise Services to Customers within the Franchise Area, so long as Franchisee is at all times ready, willing and able to provide Franchise Services and is fully and timely satisfying its Performance Obligations. Franchisee accepts that franchise, right and privilege in accordance with this Agreement. Franchisee further waives any right or claim to serve any part of the Waste Collection Areas (as set forth in Exhibit 4.01(a)) under any prior grant of franchise, contract, license, or Permit issued or granted by any governmental entity.

In addition to the provisions herein, Franchisee shall comply, and shall ensure its agreements with Customers comply, with any additional requirements of the Inyo County Code Chapter 7.08, as may be amended. Provided, however, County will not amend said Chapter during the term of this Agreement to circumvent or avoid the contractual commitments of County herein made and the Parties acknowledge that any changes to said Chapter that impact Franchisees cost of operations can be considered through the rate adjustment process specified in Article 12.

b. Limitations on Right to Provide Franchise Services. Franchisee's franchise right and privilege to provide Franchise Services is limited. Persons, including both the owners and occupants of premises and persons performing services at premises, may themselves transport and dispose of Solid Waste, C&D Waste, and/or Recyclables that they generate in the use and occupancy of those premises or as a by-product of services performed at those premises themselves, unless or until the County implements a mandatory solid waste collection ordinance and/or recycling collection ordinance. For example, landscapers, gardeners, or construction contractors or demolition contractors may collect and transport Yard Waste and C&D Waste they generate in the course of performing their services in their owned or rented dump trucks, end dumps, flatbed trucks, or similar vehicles. Also, owners and occupants of a premise may transport and dispose of solid waste that they generate on their own premises using their own vehicles.

c. Regularly-Scheduled Franchise Services. Subject to the terms and conditions of this Agreement, 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. Franchisee's obligation to offer and provide services includes, but is not limited to, Customers on non-County maintained private roads, provided that said roads are kept in a safe and good traveling condition and will accommodate Franchisee's collection vehicles. In the event any road is unsafe or in such a state of disrepair that such will be either hazardous or potentially

cause injury to the vehicle(s) of Franchisee, Franchisee shall not be required to provide service to customers on said road.

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 Commencement 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 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 pursuant to Section 4.09b. Franchisee will notify Customers of cancellation rights, pursuant to Section 4.10. New Residential Customers (having had service of six months or less) may be charged a cancellation fee not to exceed 1 month Service Fee provided said fee is disclosed by Franchisee in advance.

(iii) *Containers.* Franchisee will provide all Residential Customers located within the Franchise Area with one or more cans or Carts for the deposit of Solid Waste having a nominal capacity of up to 96 gallons ("**Residential Containers**") 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), tight sealed, and otherwise in compliance with Inyo County Code Chapter 7.08 and any applicable State regulations. Franchisee will return Residential Containers to the Set-out Site after Collection upright, with can lids properly secured, at the same point it was collected, without obstructing alleys, roadways, driveways, sidewalk, or mailboxes. Franchisee will ensure that any Bins that it provides to Residential Customers will comply with all of the requirements applicable to Commercial Containers under Subsection c(2)(iii). Notwithstanding the above requirement for Franchisee-provided cans or Carts, Franchisee may allow customers to utilize 30-45 gallon cans in limited areas not readily accessible to Franchisee Cart collection equipment.

(iv) *Frequency.* Franchisee will Collect all Solid Waste set out at the Residential Set-out Site at least once each week, on the same day ("**Regularly-Scheduled Residential Collection Day**"), or more frequently, as Franchisee and its customers may agree. Franchisee shall collect all Solid Waste for Multi-Family Unit Residential Customers at the Residential Set-out Site at least once per week, and more frequently if needed to handle the Multi-Family Unit waste stream, as required to maintain public health and safety. If Franchisee is unable, for any reason, to Collect all Solid Waste from a Customer on the Regularly-Scheduled Residential Collection Day (e.g. the regularly scheduled Collection Day falls on a holiday), then it will Collect that Solid Waste within one Service Day, and all subsequent Collection Days during that

holiday week may be moved back one day at the discretion of Franchisee and upon advance notice to all affected Residential Customers pursuant to 4.01.e.2 below.

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. Franchisee will continue to include weekly cardboard and mixed paper collection from Commercial Customers and transport same to a recycling facility.

(ii) *Cancellation of Franchise Services.* Upon oral or 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, pursuant to Section 4.10.

(iii) *Containers.* Franchisee will provide all Commercial Customers with 2, 3, 4, or 6 yard Containers as ordered by the Commercial Customer. Franchisee will provide Commercial Containers that:

- (1) are durable,
- (2) are constructed from structural steel plate with all welded seams,
- (3) are leak-proof,
- (4) are equipped with a 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; and
- (6) otherwise comply with Inyo County Code Chapter 7.08 and State regulations.

At the time of a Customer request for 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 as to form 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, 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, or other day arranged with the Customer, but in no event later than 72 hours after the time of the missed pick-up, and will provide the Customer with a verbal or written Non-Collection Notice.

e. Collection Schedules.

1. Hours. Franchisee will Collect all Solid Waste from Commercial Customers only between 5:00 a.m. and 7:00 p.m., on any given day of the week. Franchisee will Collect all Solid Waste from Residential Customers only between 7:00 a.m. and 6:00 p.m., Monday through Saturday with no service on Sunday. Except that Franchisee may Collect Solid Waste from Residential customers between 7:00 a.m. and 7:00 p.m. on Sunday:

- (i) if road closures have prevented collection during the previous 7 days; or
- (ii) with prior written approval from the Director.

Notwithstanding the above, Franchisee shall comply with any applicable Inyo County Noise ordinance. Franchisee further agrees to reasonably adjust the hours of commencement of collection operations in selected areas at the request of County where early collection activities generate material and numerous complaints from nearby residents. The above collection schedules may be temporarily adjusted due to extraordinary circumstances or conditions upon consent of the Director.

2. Changes to Collection Schedule. Prior to changing the Regularly-Scheduled Collection Day for any Customer, Franchisee will provide 15 days' oral or written Notice to that Customer.

f. Changes in Service Levels; Container Exchanges.

1. Delivery. Franchisee will give Customers Containers in accordance with Subsections c.1.(iii) and c.2.(iii). Within 7 days after receiving a request for Franchise Service 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 for such Customer 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 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.

g. C&D Waste. At anyone's request and agreement (including a Residential or Commercial Customer) with respect to price and frequency of Collection, Franchisee will Collect C&D or other Inert Waste (including dirt) that is discarded in debris boxes, roll-offs, or other similar containers. In providing C&D or other Inert Waste Collection, Franchisee shall use its best efforts to educate Customers on the proper segregation of recyclable or reusable materials so as to ensure that said materials are segregated by the customer or Franchisee and not disposed of in landfills.

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 which is not less than that charged for similar services to customers receiving regular collection services..

4.03 Service Standards.

a. General. Franchisee will provide all Franchise Services in a prompt, thorough, comprehensive, reliable, courteous and professional manner so that Customers receive high-quality service at all times. Franchisee must provide Franchise Services regardless of difficulty of collection, subject to the exceptions under Section 4.04. or extreme, unsafe weather conditions. 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. Franchisee will clean up litter caused by Franchisee's employees. Franchisee will ensure that each Collection Vehicle at all times carries appropriate tools for this purpose.

c. Spills and Leaks.

1. Solid Waste Spills. Franchisee will transport Solid Waste only in covered vehicles. Franchisee will prevent Solid Waste from escaping, dropping, spilling, blowing or scattering from Vehicles during Collection and transportation. 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 take reasonable measures to prevent oil, hydraulic fluid, paint or other liquid from leaking out of Vehicles. Franchisee shall immediately clean any liquid leaks caused by Franchisee's Vehicles

at its sole expense, and shall report any leaks in excess of five (5) gallons to the Inyo County Road Department and the Inyo County Environmental Health Services Department.

3. Reimbursement, Damages & Penalties.

i. Spillage. If Franchisee fails to clean up Solid Waste or leaked liquids as required above, 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 also responsible for paying compensatory and/or liquidated damages as set forth in Exhibit 14.01, civil penalties and/or other charges that may be lawfully assessed for improperly covering loads or leaking liquids, per incident, per location.

4.04 Service Exceptions.

a. Excess Weight. Franchisee is not required to collect a Cart weighing in excess of the manufacturer's recommended weight, as evidenced by warranties or other documentation acceptable to the County. Franchisee will provide Customers with weight limitations on the Customer Subscription Order, marked on the Cart, or through some other written means.

b. Unsafe Condition at Set-out Site. If Franchisee determines that any condition at or near any Set-out Site presents a health or safety threat to Franchisee's employees or equipment, Franchisee may attempt to personally provide the Customer whose Set-out Site presents the threat notice of the danger thereof. If Franchisee does not personally provide Customer with notice, prior to leaving Customer's premises Franchisee will provide the Customer with a Non-Collection Notice, describing the threat and danger. Franchisee may discontinue collection for that Set-out Site until the safety hazard is eliminated.

c. Hazardous Waste or Unsafe Materials. If Franchisee determines that Containers contain Hazardous Waste (other than Household Hazardous Waste not discovered and identified by Franchisee acting in accordance with its Unpermitted Waste Screening Protocol) or other materials that may present a health or safety threat to Franchisee's employees, the public, or to Franchisee's equipment, Franchisee may refuse to Collect that Container. Franchisee may attempt to personally provide the Customer whose Container contains Hazardous Waste or unsafe material with written information about their proper disposal. If Franchisee cannot personally provide Customer with information, prior to leaving Customer's premises it will provide the Customer with a Non-Collection Notice. 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. Title to and liability for Hazardous Waste and Unsafe Materials shall at all times remain with the Customer.

d. Customer Delinquency or Nonpayment. Franchisee is not obligated to provide Franchise Services to any Customer whose bill becomes delinquent fifteen (15) days after such bill was due and owing.

e. Non-Collection Tags. When Solid Waste is not collected from any customer other than due to withholding of service pursuant to subsection d immediately above, Franchisee shall

notify its customer(s) as to why that Collection was not made by attaching tags approved by the County to the applicable container(s) that clearly identify the reason(s) for non-Collection.

4.05 Customer Service.

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. Franchisee will post its Contact Information on all of its written communications with Customers.

a. Office. Unless otherwise approved by the Director in writing, Franchisee shall establish and maintain an office within the County through which the Franchisee's representatives may be contacted. Franchisee's office hours shall be, at a minimum, from 8:00 a.m. to 12:00 p.m., and from 1:00 p.m. to 4:00 p.m. on all Collection Days. A representative of Franchisee shall be available in the established office during said office hours for communication with the public.

b. Phone Number. Franchisee will maintain a 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 list the telephone number under Franchisee's name in the County telephone directories (e.g. white pages and yellow pages), and on all billing statements. 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.

c. Email. Franchisee will maintain an email address for the purpose of corresponding with customers and County. Franchisee will record customers' email addresses.

d. Emergency Number. Franchisee will also maintain an emergency telephone number disclosed to the 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 and in any event within one hour.

e. Complaints. (1) All customer complaints shall be directed to Contractor. Contractor shall record all complaints received by mail, email, by telephone, or in person (including date, name, address of complainant, and nature of complaint). Contractor agrees to use its best efforts to resolve all complaints by the close of business of the second regularly scheduled waste Collection day following the date on which such complaint is received. Service complaints may be investigated by the County or his/her designee. Unless a settlement satisfactory to the complainant and Contractor is reached, the complainant may refer the matter to the County for review.

(2) Contractor will maintain records listing the date of customer complaints, the customer, the nature of the complaint or request, and when and what action was taken by Contractor to resolve the complaint. All such records shall be transmitted to the County quarterly and maintained for a period of thirty-six (36) months and shall be available for inspection by the County.

f. Complaint Resolution. Contractor will use its best efforts to resolve all complaints by close of business of the second business day following the date on which the complaint is received. Contractor shall notify customers that service complaints may be reviewed by the County if a satisfactory solution is not reached.

A customer dissatisfied with Contractor's decision regarding a complaint may ask the County to review the complaint. To obtain this review, the customer must request the County's review within thirty (30) days of receipt of Contractor's response to the complaint, or within forty-five (45) days of submitting the complaint to Contractor if Contractor has failed to respond to the complaint. The County may extend the time to request its review for good cause.

The County shall determine if the customer's complaint is justified, and if so, what remedy, if any, shall be imposed. The remedy under this section shall be limited to a rebate of customer charges related to the period of breach of any of the terms of this Agreement.

A reference to that portion of the Franchisee's website containing the complaint resolution procedure shall be made on all billing statements.

4.06 Public Education and Community Relations.

1. Community Relations Materials. Any community relations material, other than billing information, from the Franchisee to its customers regarding the services provided under this Agreement, including rates changes, shall be approved in advance, in writing, by the County.

The County may, once each contract year, produce and give Franchisee printed inserts, specified as a sheet no larger than 8½ by 11 inches, which Franchisee will include in Customers' bills or otherwise give to Customers upon County request at no cost to the County. In lieu of mailing the materials, Franchisee may e-mail such materials to Customers that receive bills on-line or have requested electronic communication (if any).

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

2. Recycling Materials. Franchisee will develop and distribute all materials pursuant to Section 6.02.

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 lawful demand of a regulatory authority (including law enforcement and courts of law), 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 that may be required by the County or Applicable Law. The foregoing

notwithstanding, the parties hereby acknowledge that franchisee's obligation to comply with applicable law include certain information reporting obligations to CalRecycle as a result of the enactment of AB 901 (Gordon, Chapter 746, Statutes of 2015) and they agree that franchisee's compliance with those requirements or with any other disclosure laws to which franchisee is subject, may require the release, reporting or disclosure of certain customer information and data and franchisee's compliance there with does not violate this agreement or a customer's privacy rights.

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. The rights accorded Customers pursuant to this Section are in addition to any other privacy right accorded Customers pursuant to Applicable Law.

Other than as set forth above, Franchisee shall not market or distribute mailing lists with the names and contact information of its customers.

4.08 No Discrimination.

Franchisee will not discriminate against Customers entitled to Franchise Service on account of Suspect Categories.

4.09 Franchisee Billing.

a. Billing. Franchisee will bill and collect Service Fees in accordance with Franchisee's standard billing and collection practices. 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 shall provide itemized bills, distinctly showing charges for all classifications of services, including the charges for late payment and, when applicable, tipping fees. Bills shall be made no less frequently than each quarter, unless otherwise agreed to by Franchisee and its customers. Billings may be mailed at the beginning of the billing period for all services.

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 and respond to Customers' correspondence with respect to disputes regarding billing. Franchisee acknowledges that the County is not responsible for handling Customer disputes, but the County may intervene to assist in resolving disputes.

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

4.10 Description of Customers' Rights.

Within 30 days of the Commencement Date for existing Customers and 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, the form and content of which shall be subject to the review and approval of the Director:

- the scope of Franchise Services provided, including day of collection and arrangements for the collection of Bulky Waste or excess Solid Waste;
- the Service Fee (or, rate);
- Holiday schedules;
- the ability of Customers to 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;
- the complaint resolution process or a clear reference to the complaint resolution process on the franchisee's website;
- other information concerning the conditions of service, including, but not limited to, rates, fees, charges, service options, payment options, discounts (if any), service level the Dispute Resolution Protocol, including the name, address and local telephone number of Franchisee; and,
- any other provisions of this Agreement or Applicable Law as directed by County.

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. The survey shall include, without limitation, a section rating Franchisee's response to customer complaints. The survey methodology, format and content shall be subject to the prior review and approval of the Director. Nothing in this paragraph shall limit the right of the County to conduct additional surveys. The Franchisee shall reasonably cooperate with the County in such cases. Franchisee may obtain a copy of the results of the survey upon request to the County.

4.12 Performance Review.

a. County Review. From time to time, at its sole discretion, the County may examine Franchisee's operation in order to evaluate whether or not the Franchisee is operating at a satisfactory level of efficiency and customer satisfaction. Franchisee agrees to cooperate in any such examination, and upon not less than thirty six hours notice shall permit County's

representatives to inspect, at Franchisee's principal place of business, or as otherwise may be agreed upon, records and information pertaining to Franchisee's obligations hereunder as the County may reasonably require. Notwithstanding anything to the contrary contained herein, the County's right to review hereunder shall be limited to Franchisee's operations directly undertaken pursuant to this Agreement, and the County shall have no right to review any proprietary or privileged information of the Franchisee nor shall the County retain the records reviewed for this purpose..

b. Public Review. Upon providing sixty (60) days advance Notice to Franchisee, the County Board may conduct a public hearing within ninety (90) days of the first anniversary of the effective date of this Franchise Agreement, and not more frequently than every other year thereafter throughout the term of the Franchise Agreement. Said public hearing may review Franchisee's performance and the quality of Franchise Service, provide for technological, economic and regulatory changes in solid waste collection, facilitate recycling programs, promote competition in the solid waste industry, and/or aim to achieve a continuing, advanced solid waste collection system. Franchisee and County may further agree to additional topics for discussion at any such hearing. Franchisee shall attend and participate in the hearing. The County Board may use Records and reports required under Article 10, and other relevant information it may request or obtain, as a basis of its review.

1. Franchisee's Report. In addition to the Records and reports Franchisee is otherwise required to maintain and/or produce, the County may request in the Notice of the public hearing, and Franchisee shall provide at least thirty (30) days prior to the public hearing, a report to County indicating the following:

- (i) All solid waste collection and recycling services reported in solid waste collection and recycling industry trade journals that are being commonly provided on an operational basis, excluding tests and demonstrations, to communities in the United States with comparable populations, that are provided by Franchisee to County;
- (ii) Changes recommended to improve the County's ability to meet the goals of AB 939 and/or other applicable laws; and
- (iii) Any specific plans for provision of such new services by the Franchisee along with the estimated expenses and adjustments to rates necessary to compensate Franchisee for providing such services, or a justification indicating why Franchisee believes that such services are not feasible for the Waste Collection Areas.

c. County Report. Within 30 days after the conclusion of the public hearing, the County may issue a report with respect to any material matters raised at the hearings. Among other things, the report may summarize the systems and services review hearing and address services not being provided that the County considers technically and economically feasible. Concurrent with the issuance of any such report, the County and Franchisee shall meet to discuss the potential and feasibility of providing such services and the compensation required to perform such services.

4.13 Enforcement of Franchise.

The County may, in its sole discretion, enforce the franchise requirement against third party violators, taking into account the cost of doing so and other factors. In addition to the foregoing, Franchisee may independently enforce the rights granted by this Agreement to Franchisee 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 semi-exclusive 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 semi-exclusive rights under this Agreement. If Franchisee becomes aware of any activity by a third party that violates or may violate the provisions of this Agreement, 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 Commencement Date, Franchisee will give the County route maps or narratives containing the following information:

- (1) a general description of each individual route;
- (2) Collection day of the week for each individual route; and
- (3) approximate Collection times (a.m. or p.m.) for route or portion of 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 Changes Directed by County. Franchisee acknowledges that in order to provide detailed reporting it may be necessary for waste to be segregated by source location (i.e. City of Bishop, tribal lands, federal land, etc.) Therefore, County may direct Franchisee to establish routes exclusively within said locations. In the event such direction is given, Franchisee agrees to revise routing. If said changes required by County increase operation cost for Franchisee, floor rates will be adjusted per the terms outlined in Section 13.01 (2 iii) of this agreement.

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. Franchisee will utilize packer-type, completely enclosed Vehicles unless another type of Vehicle is required by terrain or type of Solid Waste to be hauled. Franchisee will paint and label all Vehicles in a consistent, uniform, and professional manner. All Vehicles will be maintained and operated in compliance with State Minimum Standards.

b. Compliance with Applicable Law. Franchisee will ensure that all Vehicles it uses to provide the Franchise Services comply with all Applicable Law. Franchisee will document, through its maintenance log or otherwise, compliance under Applicable Law applying to each Vehicle and will provide the County with copies of inspection reports within 10 days of the County's request, or within a longer time as otherwise requested. The County may conduct inspections of Vehicles in connection with any Permits issued by the County or otherwise. Franchisee will maintain copies of registration certificates and reports and make them available for inspection at its Office during Office Hours upon request 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, unless otherwise prescribed by State Minimum Standards.

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 shall provide an adequate number of vehicles and equipment to continuously provide Franchise Services. Franchisee may not leave Vehicles loaded with Solid Waste for over 24 consecutive hours.

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. 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 Personnel.

a. Nondiscrimination. Franchisee will not discriminate against any of its personnel on the basis of Suspect Categories. Franchisee will comply with all Applicable Law, including but not limited to those prohibiting discrimination in employment.

b. Compliance with Law. Franchisee will comply with all applicable labor laws, 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 material 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 implement the Unpermitted Waste Screening Protocol so as to identify and to not collect Unpermitted Waste. Franchisee will implement drug and alcohol testing in accordance with 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.

5.04 Unpermitted Waste.

Except as explicitly set forth herein, Franchisee shall not knowingly collect, handle, process, transport, arrange for the transport of, or dispose of Unpermitted Waste. Franchisee shall keep current with, and maintain compliance with, the laws and regulations applicable to Unpermitted Waste. As part of that effort, Franchisee will comply with the Unpermitted Waste screening, identification and prevention protocol ("**Unpermitted Waste Screening Protocol**") as reflected in Exhibit 5.06. 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. Except for arranging for the proper disposal of Unpermitted Waste delivered to the Designated Disposal Facility or Diversion Facility by Franchisee and/or cooperating with the facility owner/operator related thereto, if Franchisee complies with its obligations pursuant to the Unpermitted Waste Screening Protocol, and Unpermitted Waste is delivered to the Designated Disposal Facility or

Diversion Facility, Franchisee shall have no responsibility or liability associated with such Unpermitted Waste. The facility owner or operator shall look solely to the Customer/generator of such Unpermitted Waste.

The County reserves the right to contract with other Persons to collect, dispose of, divert, and otherwise handle Unpermitted Waste.

ARTICLE 6. DIVERSION

6.01 Diversion Reporting.

a. Reporting and Substantiation of Diverted Materials. Franchisee will report the amount of Diverted Recyclables to the County in its Quarterly Report or as otherwise more frequently required by the Act or Applicable Law. 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), Franchisee will respond to the County’s questions and provide additional clarifying documentation as soon as possible, but in all events within 30 days from the date the County submits written questions to Franchisee.

6.02 Additional Programs

a. Recycling Services. This Agreement contemplates that, as part of the franchise, Franchisee shall be required to offer Waste Recycling Handling Services to its customers in the near future at a date to be determined by the County, and that its right and obligation to do so will form a part of this Agreement.

The parties acknowledge that the awarding of a Waste recycling Handling Services agreement is non-exclusive and that in the event that the current providers are incapable of providing the service at a reasonable cost as determined by the County or have not demonstrated to the County's satisfaction the ability and/or willingness to provide said service at a reasonable cost to subscribers, as determined by the County this will be deemed an unmet need and in accordance with Section 3.04, the County may enter in additional Agreements of a nature similar to this Agreement with other Persons to provide Waste Recycling Handling Services.

Selection of the specific Waste Recycling Handling Services that shall be offered to residential, commercial and industrial customers, the method of providing those Waste Recycling Handling Services, and the corresponding revision of the floor rate shall be determined in cooperation with the County and are subject to County approval. At a minimum, such Waste Recycling Handling Services shall include the collection and transportation of recyclable waste materials from the premises of such residential, commercial and industrial customers to the processing location or point of sale.

The County may specify the processing location or point-of-sale for any recyclable material it directs to be collected. County acknowledges that any decision to exercise its right to control the Solid Waste Stream, may increase Franchisee's Direct Costs which may justify an increase to Franchisee's Service Fees. In any such event, Franchisee shall request a Pass-Through Cost Adjustment in the same manner by which a request is made for a Change in Law as set forth in Article 12,01.c,2 of this Agreement.

At such time as the Board of Supervisors determines the recycling services that are to be provided, and has selected a date or dates for the implementation of such services, the Waste Recycling Handling Services and implementation dates shall be set forth in Exhibit 4.06. At such time as the County provides Notice to Franchisee of its decision to incorporate Waste Recycling Handling Services in this franchise, Franchisee shall thereafter perform all education, outreach, monitoring, and reporting for all commercial solid waste and multi-family properties as required by AB 939 and AB 341, which shall include online and print materials. All materials and proposed educational activities shall be submitted to the County for approval prior to distribution. These activities shall include educating commercial solid waste and multi-family customers regarding the mandatory recycling requirements of AB 341, and notifying non-compliant commercial solid waste and multi-family customers at least semi-annually.

Upon the beginning of Waste Recycling Handling Services, Franchisee shall be an Authorized Recycling Agent of the County within the meaning of Public Resources Code Section 41950. All recyclable materials placed for collection at curbside (for a residential curbside collection

program), or placed at the designated collection location (in the case of a commercial or industrial entity), are the property of the Franchisee in accordance with Public Resources Code Sections 41950(c) and 41951(c).

b. Expansion of Services. The County may direct Franchisee to submit proposals for additional programs, including diversion programs, necessary in the County's opinion to meet any required diversion goal or other goal. If necessary, prior to implementation of said necessary programs, the Parties will enter into good faith negotiations for at least 30 days following the date the County directs Franchisee to submit a program proposal. If the Parties cannot reach agreement regarding implementation terms within thirty (30) days, the County may, at any time and in its sole discretion, independently implement programs itself or through a third Person.

ARTICLE 7. SOLID WASTE DISPOSAL

7.01 Transportation to Designated Disposal Facility.

a. County May Control Waste Stream. County has the right, in its sole discretion, to control the disposal and diversion of all Solid Waste, including recyclables, generated within the Waste Collection Areas (the "Solid Waste Stream"). Accordingly, the County has the right, upon 30 days' Notice to Franchisee to:

- (1) direct the Solid Waste Stream to be disposed of at, or diverted to, any Disposal or Diversion Facility;
- (2) market and process Recyclables generated within the Waste Collection Areas.

County acknowledges that any decision to exercise its right to control the Solid Waste Stream, may increase Franchisee's Direct Costs which may justify an increase to Franchisee's Service Fees. In any such event, Franchisee shall request a Pass-Through Cost Adjustment in the same manner by which a request is made for a Change in Law as set forth in Article 12.01,c,2 of this Agreement.

b. Designated Disposal Facility. Except as otherwise directed by County pursuant to Section 7.01a above, Franchisee will transport and deliver all Solid Waste, except for Recyclables that it diverts, to a 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.

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

7.02 Defense and Indemnification; Release

a. Requirement. Franchisee will defend, release, indemnify and hold harmless at its sole cost and expense with counsel approved by the County, the County (including Persons described in the definition of “County” in Exhibit 1.01) in any actions that assert or allege Liabilities paid, incurred or suffered by, imposed upon or asserted against, the County that result or are claimed to have resulted directly or indirectly from the presence, disposal, escape, migration, leakage, spillage, discharge, release or emission of Unpermitted Waste or petroleum products to, in, on, at, or under any place, site or facility where Franchisee delivers, stores, processes, recycles, composts or disposes of Solid Waste to the extent that the Liabilities are caused or alleged to be caused by the following:

1. Franchisee Negligence or Misconduct: the wrongful, negligent act, error or omission, or the willful misconduct of the Franchisee; or
2. 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; or
3. 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; or
4. 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.

b. Exclusion. Notwithstanding anything contained herein to the contrary, Franchisee will not be required to defend, release, indemnify and hold harmless the County (or any other party) to the extent any Liabilities are due to the: (i) negligence or willful misconduct of the County and the Persons described in the definition of “County” in Exhibit 1.01 or any other third-party not under the control of Franchisee, (ii) violation of any law, rule, regulation, order, permit, or license by County, any of the Persons described in the definition of “County” in Exhibit 1.01, or any other third-party not under the control of Franchisee, or (iii) to the extent prohibited by law.

c. Cooperation with County’s Counsel. The County may retain counsel at its own cost and expense or utilize in-house counsel as co-counsel. Franchisee will direct Franchisee’s counsel to assist and cooperate with co-counsel with respect to the County’s defense.

d. Liability Transfer. The indemnity in subsection a is intended to operate as an agreement pursuant to Section 107(E) of the Comprehensive Environmental Response and Liability Act ("CERCLA"), 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 in accordance with this Section.

e. Unpermitted Waste. For waste other than that collected from County facilities, Franchisee hereby releases and will not seek contribution or compensation of any nature from County for Liabilities relating to Unpermitted Waste arising from franchisee's performance under this agreement, 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 Fee or otherwise, or maintains to cover Liabilities arising from franchisee's performance under this agreement 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. If the County directs waste to a Disposal Facility not owned by the County, it reserves the right to pay those disposal costs directly and adjust the Franchisee's rates accordingly.

ARTICLE 8. MISCELLANEOUS SERVICE PROVISIONS

8.01 Emergency Services.

a. Franchisee Performance During Emergency. During emergency situations, as determined by the Director, other than those set forth in Section 14.08 below, within 24 hours of Notice from the County, Franchisee will provide emergency 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 debris resulting from natural disasters such as earthquakes and floods. The County will compensate Franchisee for those services at rates reasonably set by Franchisee, which shall include, without limitation, reimbursement for all costs and expenses incurred by Franchisee in providing such emergency services and profit thereon. Notwithstanding anything contained herein to the contrary, Franchisee shall have the right to determine (in its reasonable discretion) the timing and nature of such emergency services, based on any and all relevant factors, including, without limitation, the safety of Franchisee's employees and equipment, and the safety of the Customers, and the feasibility of performing such services. Notwithstanding anything contained herein to the contrary, nothing herein shall limit the County's emergency services authorities as specified in County code or State or Federal law.

b. County Performance During Emergency. County may perform Franchise Services during an emergency as set forth in Section 14.08 below.

8.02 Compliance with Applicable Law.

a. Compliance. Franchisee will perform all Franchise Services, and will cause its Subcontractors to provide goods or services, in accordance and compliance with Applicable Law and with this Agreement, whether or not referenced specifically in the text of this Agreement and regardless of whether Performance Obligations are stated less stringently than Applicable Law. If any Performance Obligation is more stringent than Applicable Law, Franchisee and its Subcontractors must satisfy that Performance Obligation. Nothing in this Agreement is construed to relieve the Franchisee of any obligations imposed by Applicable Law.

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. Notwithstanding the foregoing, the County agrees that it shall not make any rules or regulations which materially change the County's or Franchisee's rights hereunder. Franchisee agrees to comply with any and all such rules and regulations.

County acknowledges that any decision to exercise its right to change rules or regulations may increase Franchisee's Direct Costs which may justify an increase to Franchisee's Service Fees. In any such event, Franchisee shall request a Service Fee adjustment in the same manner by which a request is made for a Change in Law as set forth in Section 12.01.e.2 of this Agreement.

Provisions of Applicable Law are incorporated in this Agreement by reference as if set forth fully in this Agreement as contractual obligations of Franchisee to County. However, the County has no obligation to enforce any Applicable Law.

b. Referenced Provisions. Reference in this Agreement to particular provisions or requirements of Applicable Law may not be construed to limit Franchisee's obligation to comply with all provisions of Applicable Law. Reference to statutory provisions of Applicable Law are deemed to include reference to implementing rules and regulations. These references are intended to facilitate Franchisee's satisfaction of its Performance Obligations and the County's administration and specific enforcement of this Agreement, and may not be construed to imply lack of obligation to comply with other provisions or requirements of Applicable Law not referred to or cited in this Agreement. If any Applicable Law specifically referenced or cited in this Agreement is amended, supplemented, restated, re-codified, modified or repealed, that reference or citation will be deemed to refer to that amendment, supplement, restatement, re-codification or modification.

c. Permits. Franchisee will obtain and maintain throughout the Term all necessary approvals, authorizations, and Permits. Franchisee will show proof of approvals, authorizations, and Permits and will demonstrate compliance with the terms and conditions of said approvals, authorizations, and Permits promptly upon the request of the County.

d. Fines and Penalties. Franchisee shall be responsible for payment of any and all fines and penalties imposed on Franchisee, except to the extent resulting from the acts or omissions of the County (including, the acts and omissions of County's employees, representatives, officials, and agents), Customers, or any other third party not under the control of Franchisee.

8.03 Cooperation with Waste Studies.

Franchisee will cooperate with the County on any and all 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 on any and all Customer waste assessments, including providing information in its Records on volume and characterization of wastes generated by Customers.

8.04 Waste Audits.

Franchisee shall conduct waste audits at the request of County where such waste audits are necessary to enable County to comply with the requirements of federal or state law. The results of such audits will be memorialized on forms either designed or approved by the County. The purpose of the audit will be to identify volume and characteristics of solid waste being generated by the customer. A copy of the audit shall be provided by the Franchisee to the customer, the County, and to Franchisee's own files.

8.05 Service Materials Belong to County.

Reports prepared by Franchisee in accordance with Article 10, public education and community relations materials prepared in accordance with Section 4.06 whether developed directly or indirectly by the County or Franchisee, are owned and may be used by the County without limitation or restriction. 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, may be used by the County. Franchisee may also continue to use public education and community relations materials and other work product in connection with any project not connected with this Agreement without the prior written consent of the County.

8.06 Recycled Materials.

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

8.07 Responsiveness to County.

- a. Contact Person.** Franchisee shall designate a "government liaison" person who shall be primarily responsible for working with the Director or his/her designee to address routine / day-to-day issues related to this Franchise Agreement.
- b. Return of Communications.** Except as otherwise required herein, 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. Franchisee will

respond to all e-mails from the County within 2 County Working Days of receipt and will respond to other written correspondence from the County within 7 days of receipt thereof.

- c. In Person Meetings.** Franchisee will meet with the County during County Office Hours within one week of the County's oral or written direction at County offices or other location 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. The person attending these meetings on behalf of Franchisee shall be vested with sufficient authority to make decisions binding on Franchisee.

8.08 Changes in Scope or Specifications of Franchise Services.

a. Directions and Proposals. The County may direct Franchisee to submit proposals for changes in the scope of specifications of Franchise Services or Franchise Obligations, such as mandatory commercial recycling programs. If necessary, the Parties will enter into good faith negotiations for at least 30 days following the date the County directs Franchisee to submit a proposal. If the Parties cannot reach agreement regarding the cost and corresponding rates associated with the proposal within 30 days, the County may independently implement programs itself, with another franchised hauler or through a third Person.

8.09 Failure to Report. The refusal, failure or neglect of the Franchisee to file any of the reports required, or to provide material information to County, or the intentional inclusion of any materially false or misleading statement or representation made knowingly by the Franchisee shall be deemed a material breach of the Franchise Agreement, and shall subject the Franchisee to all remedies, legal or equitable, which are available to the County under this Agreement.

ARTICLE 9. INTENTIONALLY OMITTED

ARTICLE 10. RECORDS AND REPORTING

10.01 Intent and Review.

Franchisee acknowledges that the County entered into this Agreement, among other reasons, to provide Customers and the County with improved Collection Services while maintaining the benefits of open competition. 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. Franchisee's failure to adhere to any requirement of this Article shall be considered a material breach of this Agreement.

10.02 Records

a. Maintenance. Franchisee shall maintain in its principal office in the County, a proper set of books and records on an accrual basis, and an annual financial statement in accordance with generally accepted accounting principles, accurately reflecting the business done by it under this Agreement including items listed in Exhibit 10.01a.

Franchisee shall maintain all records relating to the services provided hereunder, including, but not limited to, customer lists, billing records, route maps, AB 939 records, and customer complaints for a period of three (3) years from the date of the generation of each such record.

b. County Inspection and Audit. Upon ten (10) business days' advance Notice by the County, Franchisee will make Records which reasonably relate to the Franchisee's compliance with the provisions of the Franchise Agreement available to the County or County's designee(s) for inspection or audit at Franchisee's Office during Office Hours. To the extent the County inspects and/or otherwise obtains Customer information from Franchisee, the parties agree that Franchisee's customer lists, route maps/route listings, service records and other operating statistics are a valuable trade secret of Franchisee and are exempt from disclosure under the Public Records Act.

The County agrees to hold financial statements delivered pursuant to this section as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to applicable law. Nothing in this section will prevent County from allowing public access to County's records as required by law, and in the event any dispute arises as to the public access to information provided by Franchisee under the terms of this Agreement, the County shall, in its discretion, provide public access to said information according to law or tender the defense of any claims made against the County concerning said information to Franchisee. Prior to releasing any information pursuant to this paragraph, County shall make a good faith effort to notify Franchisee of the intended release.

County shall not make or retain copies or photocopies containing Franchisee's confidential financial and business records pertaining to the establishment of rates and payment of franchise fees without executing a confidentiality agreement providing that County shall hold and keep such copies and photocopies confidential. The confidentiality agreement shall be negotiated in good faith between the County and Franchisee, and commemorated in a separate legally binding document.

Notwithstanding anything contained herein to the contrary, the County shall have no right to review, audit, inspect, or copy any of Contractor's: (i) confidential, proprietary, or privileged information (as determined in Contractor's reasonable discretion), or (ii) information or records concerning operations outside of the services provided pursuant to this Agreement as agreed to by both parties.

Where the County has reason to believe that Records may be lost or discarded due to dissolution, disbandment or termination of Franchisee's business or other reason, the County may require that Franchisee give the County custody of any or all Records and that those Records and documents be maintained in the County Office of the Recycling and Waste Management Department. In that event, access to said Records will be granted to any Person duly authorized by Franchisee.

c. Requested Floor Rate Increase. In the event that Franchisee requests an increase in the floor rates in order to maintain a reasonable rate of return, the County or County's agents shall be entitled to examine the books, records and financial statements of Franchisee and its affiliates pertaining to operations not regulated by the County for the sole purpose of gathering information necessary to allow the agents to ascertain whether income, expenses, assets and liabilities are reasonably and consistently allocated among operations regulated by County and those not regulated by the County. For review of books and other financial records necessary to verify Franchisee's income, expenses, assets and liabilities, "Agent" shall mean an independent certified public accountant or public accountancy firm designated by County.

Franchisee may request that rather than using County staff that the County appoint an Agent. The County will honor said request, however, all additional costs of employing an Agent will be borne by Franchisee.

Information gained from examination of records pertaining to operations not regulated by the County shall be treated by the County and its agents as proprietary and confidential trade secret information exempt from disclosure under the Public Records Act. County or County's agents shall prepare a confidential report regarding the results of their examination of Franchisee's non-regulated operations and transactions with affiliates. County or County's agent shall issue its report on Franchisee's non-regulated operations and Franchisee's transactions with affiliates to County's counsel, and said report shall remain confidential, except that the dollar amount and general description of any costs that County or County's agent recommends be disallowed shall be disclosed to County's governing body. If Franchisee appeals the conclusions of said report to County's governing body, Franchisee shall decide what portions, if any, of said report shall be disclosed to County's governing body. County's governing body shall then consider Franchisee's request for increase in the rate, but may, in its discretion, limit its consideration to that information the Franchisee has made public, or deny said request if in the County's reasonable discretion inadequate information has been disclosed to County's governing body to make an informed decision on the request.

d. County Review of Financial Statements. County and/or its agents and consultants may review any audit plan and work papers of any of the accountants whose opinions on the financial statements Franchisee is obligated to deliver to County in accordance with subsections a, b, and c. 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 the issues involved within 14 days of County's direction.

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 or approved by 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 or approved by 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.

c. Additional Information. Franchisee will use Reasonable Business Efforts to incorporate into reports additional information from Records promptly upon Notice from the County.

ARTICLE 11. INSURANCE, INDEMNIFICATION AND PERFORMANCE ASSURANCES

11.01 Insurance. Franchisee shall procure and maintain for the duration of the contract insurance 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 the Franchisee, his agents, representatives, employees or subcontractors.

a. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Franchisee has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$5,000,000** per accident for bodily injury and property damage.

3. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the Franchisee maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Franchisee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

b. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status

The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Franchisee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Franchisee's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

2. Primary Coverage

For any claims related to this Agreement, the Franchisee's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Franchisee's insurance and shall not contribute with it.

3. Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.

4. Waiver of Subrogation

Franchisee hereby grants to County a waiver of any right to subrogation which any insurer of said Franchisee may acquire against the County by virtue of the payment of any loss under such insurance. Franchisee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

5. Self-Insured Retentions

Self-insured retentions must be declared to and approved by the County. The County may require the Franchisee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to

provide, that the self-insured retention may be satisfied by either the named insured or County.

6. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

7. Claims Made Policies

If any of the required policies provide claims-made coverage:

- i. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Franchisee must purchase "extended reporting" coverage for a minimum of *five (5)* years after completion of work.

8. Verification of Coverage

Franchisee shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause.. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Franchisee's obligation to provide them.

9. Special Risks or Circumstances

At the beginning of any extension of the Term as provided for under Section 3.01 (b), County reserves the right to require reasonable modifications to the insurance requirements of this Section 11.01, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

11.02 Franchisee Indemnification, Release/Hold Harmless and Defense.

a. Defense and Indemnification. Franchisee will indemnify, defend with counsel approved by the County, protect and hold harmless the County from and against all Liabilities paid, incurred or suffered by, or asserted against, the County that result or are claimed to have resulted directly or indirectly by Franchisee's actions or inactions related to this Agreement, including the following:

1. Franchisee Negligence or Misconduct: the wrongful, willful or negligent act, error or omission, or the misconduct of the Franchisee and the Persons described in the definition of "Franchisee" in Exhibit 1.01;
2. Intellectual Property.: any allegation of infringement, violation or conversion of any patent, licenses, proprietary right, trade secret or other similar interest, in connection with any Service Assets, including technology, processes, Vehicles, software, machinery or equipment;

Franchisee will not, however, be required to reimburse or indemnify the County or any other person pursuant hereto, to the extent any Liabilities are due to: the negligence or willful misconduct of, or violation of any law, rule, regulation, order, permit, license, or ordinance by the County or any of the Persons described in the definition of "County" in Exhibit 1.01.

b. AB 939 Indemnification. Subject to the provisions of Public Resources Code Section 40059.1, Franchisee will further indemnify, defend with counsel approved by the County, protect and hold harmless the County from and against any and all fines, penalties and assessments levied against or threatened to be levied against the County for the County's failure to meet the requirements of AB 939, its amendments or any successor legislation and/or all rules and regulations promulgated thereunder, but only to the extent, said failure results from Franchisee's failure to comply with the express provisions of this Franchise Agreement and/or Franchisee's failure to comply with said laws, rules or regulations binding on Franchisee, including but not limited to failing to timely supply the County with documentation needed in order to comply with AB 939. However, Franchisee shall not be obligated to indemnify County for fines or penalties caused by County's modifications of Franchisee's information, by a change by the County in the scope of work hereunder which materially and negatively affects the ability of Franchisee to perform diversion activities, or by County's own acts or omissions which result in County's failure to provide timely reports to the state. In addition, the Franchisee's duty to indemnify under this Section is subject to the following restrictions:

1. The Franchisee's obligation to indemnify the County shall not be enforceable to the extent the penalty imposed on the County is based upon the failure of the County to establish and maintain a source reduction and Recycling element pursuant to Sections 41000 et seq. of the Public Resources Code.

2. No payment required under the Franchisee's obligation to indemnify the County may exceed that portion of any penalty assessed by CalRecycle against the County that was caused by Franchisee's failure to comply with an express obligation or requirement of this Agreement. Further, the Franchisee shall not be liable under the indemnity obligation to the extent that the Company's failure to comply resulted from County's action or failure to act, determined as a result of judicial review, hearing or appeal to CalRecycle.

11.03 Letter of Credit/Performance Bond.

a. Conditions of Letter of Credit or Performance Bond - In the event Franchisee fails to make timely payment of any Franchise Fees owed to County, County may require Franchisee, in

addition to paying any payment and/or penalty required, to provide for the issuance of an irrevocable direct pay letter of credit or a performance bond as described below (Franchisee shall be entitled to select whether it provides a letter of credit or performance bond).

1. Letter of Credit - A letter of credit shall be issued by a bank approved by the County for the benefit of the County, under which the County is authorized to draw, in one or more drawings, an aggregate amount of fifty thousand dollars (\$50,000) upon the occurrence of an Event of Default or Franchisee's failure to timely pay any County Payment Obligation. All interest from said letter of credit shall be payable to Franchisee. The expiration date of the Letter of Credit must be no less than the Term or if subject to renewal, provide the County with 30 days advance notice of non-renewal. The Letter of Credit will expire on the date on which the Bank receives a certificate from the County saying that the Term has expired or this Agreement has been terminated and Franchisee owes County no money hereunder, or that Franchisee has substituted an alternative letter of credit or other security document acceptable to County in County's sole discretion. The form of the Letter of Credit is subject to approval of County in its sole discretion. The Letter of Credit must be transferable to any successor or assign of the County.

2. Performance Bond - An irrevocable, annually renewable performance bond for the faithful performance of Franchisee's payment obligations hereunder (the "Performance Bond"). The Performance Bond shall be in the amount of fifty thousand dollars (\$50,000). The County shall be authorized to draw, in one or more drawings, on the Performance Bond upon the occurrence of Franchisee's failure to timely pay any County Payment Obligation in accordance with the terms hereof.

b. County Withdrawals - After thirty (30) days following Franchisee's failure to pay the County an amount owing under this Franchise Agreement plus interest at the rate of fifteen percent (15%) per annum, the letter of credit or performance bond may be assessed by the County upon five (5) days' prior written notice to the Franchisee for purposes including, but not limited to:

1. Failure of Franchisee to pay the County sums due under the terms of the Franchise Agreement;
2. Reimbursement of costs borne by the County to correct Franchise Agreement violations not corrected by Franchisee, after due notice; and
3. Monetary remedies or damages assessed against Franchisee due to breach of Franchise Agreement.

The Franchisee shall deposit a sum of money sufficient to restore the letter or bond to the original amount within thirty (30) days after notice from the County that any amount has been withdrawn.

ARTICLE 12. SERVICE FEES

12.01 Service Fees.

a. Setting Rates, Charges, and/or Floors.

Franchisee understands and acknowledges that in establishing this, and other permissible Franchise Agreements, the County intends to retain and preserve its ability to allow for competition in the market place to obtain the best services at the lowest costs for residents and businesses and choose not to set Service Fees, other than Service Fee floors, for the provision of Franchise Services pursuant to this Agreement.

Franchisee further understands and acknowledges that at present, the County has chosen to establish Service Fee floors for the provision of Franchise Services pursuant to this Agreement, but that makes no warranty that it will continue to use the floor rate fee methodology for the term of this Agreement. The decision of whether to regulate fees, not regulate fees, or continue setting floor rates rests solely and exclusively with the County. Current Service Fee floors are identified in Exhibit ??, and may be adjusted as set forth below.

Notwithstanding the above, the Board of Supervisors may also choose to fully set and regulate all rates and charges assessed by Franchisee for any and all services and activities it performs or engages in the Waste Collection Areas pursuant to this Franchise Agreement without the benefit of Service Fee floors. Furthermore, if the Board of Supervisors determines to regulate the rates of only some of Franchisee's services and activities, that decision shall not be construed as a waiver of the County's rights to regulate the rates or charges assessed by Franchisee for services not so regulated. The process for setting rates, charges, and/or Service Fee floors, is described in 12.01 (d).

b. Service Fee Floors.

The County currently chooses to employ Service Fee floors. As long as the County chooses to maintain 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 for existing Agreements as set forth below.

Existing Agreements. Franchisee may charge Service Fees below those set forth in Exhibit 13.01a to Commercial Customers having Existing Agreements containing Service Fees which are currently less than those set forth in Exhibit 13.01a, provided that Franchisee furnishes a copy of the Existing Agreement to the County, the County verifies the Existing Agreement, and the Existing Agreement is listed in Exhibit 13.01. This exception applies only for the current term of the Existing Agreement, excluding any extensions, renewals, or roll-overs.

c. Annual Service Fee Floor Adjustments.

The Board of Supervisors will adjust Service Fee Floors upward or downward, in the manner described below:

1. *(CPI Adjustment.* Commencing on January 1, 2020 and on the same date annually thereafter (the “Adjustment Date”), the portion of the Service Fee Floor rates not associated with tipping fees will be adjusted to account for annual inflationary increases in an amount equal to the annual percentage change in the Consumer Price Index (CPI) All Urban Consumers, Garbage and Trash Collection Component. This annual cost of living adjustment (the “COLA” adjustment) shall be equal to one hundred percent (100%) multiplied by the average of the month to month change in the CPI for the 12 month period ending nearest, but at least 60 days prior to, the date the COLA adjustment is to take effect.
2. *Pass-Through Costs Adjustment.* At the same time as the CPI Adjustment is considered the Service Fee Floor rates shall also be adjusted to account for Franchisee’s increased or decreased pass through costs as defined in Section 13.01 d 2 during the Term of this Agreement (including, without limitation, increases to the Franchise Fee) such that cost changes shall be “passed-through” to Franchisee’s customers in the form of floor rate adjustments.

d. Alternative Service Fee Floor Adjustment

Prior to December 1 of each year any Franchisee who believes the CPI Adjustments either understates or overstates actual local cost of doing business may request the Board of Supervisors consider adjustments to the Service Fee floor using the rate-setting model described in Section 12.01 e below in lieu of the CPI Adjustment and Pass-Through Cost Adjustment specified herein. The decision to implement the rate-setting model described Section 12.01 e below shall be made exclusively and solely by the Board of Supervisors at a public meeting. As such, the Franchisee requesting application of the alternative rate-setting model Section 12.01 e should fully substantiate its reasons for making the request at the time the request is filed. The Board of Supervisors may also decide, on its own volition to employ the rate setting methodology described below. If the Board of Supervisors decides to employ the rate-setting methodology described in Section 12.01 e on its own volition or at the request of a Franchisee, no rate increases or decreases will be granted until the County completes its analysis of the cost components described in Section 12.01 e and the Board of Supervisors acts on the increase or decrease in rates.

e. Rate Setting. Beginning on January 1, 2020 at any time thereafter, the Board of Supervisors may fix Service Fees, or make Annual Service Fee Floor Adjustments, based on its review and approval of the following cost components. If the County intends to recommend that this rate-setting methodology be employed absent a written request described in Section 12.01 d above, the County shall provide notice to all Franchisees at least 45 days prior to the end of the calendar year.

1. Operating Costs. Operating costs used to determine rates include solid waste collection, processing, transfer and disposal costs. Operating costs shall include reasonable salaries and bonus compensation for all officers of Franchisee that are actively involved in the management of Franchisee's business activities. Operating costs shall exclude the following:

- i. Income taxes;
- ii. Payments to affiliates of Franchisee other than reasonable compensation for goods or services rendered;
- iii. Entertainment expenses;
- iv. Fines and penalties;
- v. Cost of repairs due to operator negligence;
- vi. Charitable and political donations;
- vii. Expenses not associated with solid waste operations franchised under this Agreement;
- viii. Unreasonable expenses in kind or amount;
- ix. The principal portion of any loan repayments; and
- x. Any other costs disallowed under the terms of this Agreement.

2. Pass-Through Costs. Pass-through costs shall be allowed as an expense for purposes of setting Franchisee's collection rates, but shall not be included as an eligible cost for purposes of calculating Franchisee's profit margin. The following adjustment shall also be considered at any time upon a request by Franchisee. 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 in this Section. Pass-through costs include the following:

- i. The Franchise Fee set pursuant to this Agreement;
- ii. The cost of any other cost or fee, except for fines and penalties, imposed on Franchisee by the County;
- iii. Cost increases associated with a change and/or increase in the level of service required of Franchisee through this Agreement or change of terms in this agreement;
- iv. Any changes in law, regulations, taxes or designated disposal sites which change the contractor's expenses; and
- v. Fees, surcharges, and other amounts collected by Franchisee as agent of the County or other federal, state, or local agency.

3. Allowed Profit. The Franchisee shall be entitled to a reasonable profit on its operating costs established in the sole discretion of the Board of Supervisors.

4. If, after negotiating the rate setting mechanism in Section 12.01(d), Franchisee is not satisfied that the rate provides for an adequate profit, Franchisee may terminate the Agreement upon providing the County 45 days notice.

5. Special Circumstances Floor Fee Adjustments. The following adjustment shall also be considered upon a request by Franchisee. 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:

The parties acknowledge there may be infrequent extraordinary events which, although they do not prevent either party from performing and thus do not implicate the Force Majeure provisions hereof, nevertheless increase the cost of providing service such that Franchisee's compensation and the rate adjustment mechanism provided in this Agreement result in Franchisee's suffering losses which are substantially outside the commercially reasonable expectations of the parties. The obligation of the parties in such event is to act reasonably toward each other in arriving at an appropriate adjustment in rates. Accordingly, and at its option, the Franchisee may request a special circumstance rate review should an event or circumstance arise which negatively impacts the economics of operating pursuant to this agreement and which is in excess of the rate adjustment resulting from the application of the annual adjustment formula set forth hereinabove. It is understood that the Franchisee shall have the burden of demonstrating to the reasonable satisfaction of the County the basis for the request. The County may also initiate a special circumstance rate review at its option.

The rate adjustment after a special circumstances rate review may result in a rate increase, a rate reduction or no change in rates. All pertinent information must be submitted to Director for review and subsequent approval by the Board of Supervisors. The costs of a special circumstance rate review shall be borne by the party requesting such review.

If an increase in cost results from the Alternative Service Fee Adjustment Method whether initiated by Franchisee or by the Board of Supervisors, at least 6 weeks prior to the implementation, Franchisee will give written notice of increases to each Customer in a form satisfactory to the County.

e. Notice of Rate Setting Hearing.

If the Board of Supervisors determines to fix Service Fees, other than adjusting floor rates, Franchisee shall provide written notice to each rate payer in a form approved by the County, of the time, date and place of each hearing set by the Board of Supervisors to set rates. Franchisee shall provide said notice at least ten (10) but no more than sixty (60) days prior to such date and the expense therefor shall be included in the rate base.

At least four (4) months before the effective date of any rate increase (other than one based solely on a landfill disposal cost increase) proposed by Franchisee, Franchisee shall submit to the Board of Supervisors a rate application in a form to be determined by the Board of Supervisors, which shall include proposed collection rates and revenues and operating cost and pass-through cost projections for the upcoming two-year period, which projections shall have a reasonable factual basis. Rates shall be set with the intent to reimburse Franchisee for its allowed operating and pass-through costs and allowed profit. The parties recognize that the Board of Supervisors shall use its best judgment and discretion in evaluating Franchisee's projections and may make adjustments, with a reasonable factual basis, in Franchisee's projections of its operating costs and pass-through costs and in setting rates. By this Agreement, neither the County nor its governing body or staff agree, guarantee or warrant that such projections or adjustments will be accurate, or that Franchisee will, in fact, achieve reimbursement of all of its operating costs or pass-through

costs, or that Franchisee will achieve its projected profit margin. Franchisee expressly assumes the risk that its costs may be higher than projected in the rate setting process and that its revenues may be lower than projected.

12.02 Franchise Fee Payable by Franchisee.

1. Amount. In consideration for County's granting Franchisee the franchise described in Section 4.01, Franchisee will pay the County the Franchise Fee equal to 10% of the Gross Revenues received from providing the Franchise Services, commencing with revenues billed for and received after April 1, 2019, but excluding Gross Revenues received from providing the Franchise Services pursuant to an Existing Agreement listed in Exhibit 13.01a. Said Franchise Fee shall satisfy any obligation Franchisee has to pay pursuant to Inyo County Code Chapter 7.08. The County may change the applicable Franchise Fee upon at least sixty (60) days' Notice to Franchisee.

2. Payment. Franchisee will pay the Franchise Fee quarterly, no later than the fifteenth 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 15). With payment, Franchisee will additionally provide:

- (1) documentation in form and detail satisfactory to the Director showing the basis for calculating the franchise fee, together with additional information to calculate or verify the franchise fee that the Director may determine to be necessary; and
- (2) a representation and warranty as follows: "I represent and warrant by and on behalf of Franchisee, under penalty of perjury in the State of California, that, to the best of my knowledge and belief, the Franchise Fee and accompanying documentation supporting such Franchise Fee are true, correct and complete."

Documentation and 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 fees actually due and payable.

3. Late Payment Charges. If payment is not received in accordance with subsection a2, then Franchisee shall pay interest equal to fifteen percent (15%) per annum, or at the maximum interest rate permitted under California law, whichever is lower, of the total of the unpaid monthly charges. Said late payment charges shall not be recoverable through rate setting. Late payments received shall first apply to the late payment charge(s) and then to the outstanding principal balance of the unpaid monthly charges, with payments made toward the oldest balance(s) first.

Failure to submit payment in full of the franchise fee within ninety (90) days after the due date shall be an event of Default, unless the director agrees in writing to extend the time for payment.

4. **County Audit.** The County may, at its own expense and using a consultant of its choosing, audit the records of Franchisee and Franchisee must provide the County with copies of records within 2 weeks of the County's request. If the County's audit demonstrates to the satisfaction of the County that the Franchise Fee paid by Franchisee to the County was understated, then Franchisee will pay the County:

- (1) the amount of the understated Franchise Fee plus the late payment charges provided in subsection 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 Franchise Fee paid by Franchisee was understated by greater than 2%, the County's Reimbursement Cost to conduct the audit.

Said costs shall not be recoverable through rate setting.

12.03 Franchise Fee Disputes.

a. County's Notice of Dispute. If the County disputes any amount calculated by Franchisee under Section 12.02, 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 agree to attend mediation where, each Party agree to negotiate in good faith a resolution to the dispute. The mediator shall be mutually agreed, and such mediator's fee shall be shared equally by the Parties. If, after such mediation, the Parties are still unable to resolve their dispute, each Party may avail itself of any remedies available to such Party under this Agreement, at law, in equity, or otherwise.

12.04 No Other Fees or Gratuities. Franchisee shall not, nor shall it permit any agent, employee, affiliate, sub-contractor employed by it, to request, solicit, or demand, directly or indirectly, any compensation or gratuity for the collection of solid waste otherwise required to be collected under this Franchise Agreement.

ARTICLE 13. BREACHES, DEFAULTS, DAMAGES AND OTHER REMEDIES

13.01 Certain Breaches and Damages.

a. Notice and opportunity to correct. 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 set forth in this Agreement whenever possible by working with Franchisee informally to resolve Events of Default or other failures to satisfy the obligations set forth in this Agreement. Thus, the County may, in its sole discretion, provide written notice to Franchisee of any Event of Default or failure by Franchisee to satisfy the obligations set forth in this Agreement of which the County becomes aware prior to pursuing other remedies set forth in this Agreement. If Franchisee corrects said Event of Default or failure to the satisfaction of the Director within the number of days provided, then the County shall not pursue additional remedies for that occurrence.

b. Franchisee Reports. In each Quarterly Report, Franchisee will certify to the County that it has fully and timely met its Performance 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 occurring after the first 6 weeks following the Commencement Date.

c. County Notice. If the County becomes aware at any time that Franchisee has not fully and timely met its Performance Obligations then the County may provide Franchisee with a Notice, in writing, thereof specifying any damages that Franchisee must pay the County in accordance with Exhibit 14.01 within 10 days of Notice, *unless* Franchisee contests payment of damages as provided in subsection d.

d. Procedure for Review of Damage Obligations. Within ten (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 review Franchisee's evidence and render a written decision to Franchisee confirming or reversing the imposition of damages within thirty (30) days of receipt of the evidence. The County's assessment and/or Collection of assessed damages shall not prevent the County from exercising any other right or remedy, including the right to terminate this Agreement, for Franchisee's failure to perform the work and services in the manner set forth in this Agreement.

Notwithstanding anything contained herein to the contrary, Franchisee shall be entitled to all avenues of redress provided hereunder, at law, or in equity. The imposition of such assessed damages shall be stayed if Franchisee seeks such review.

e. Damages Reasonable. The Parties acknowledge that the County has 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. 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 Performance Obligations represents a loss of bargain to the County and Customers.

The Parties further recognize that quantified standards of performance and regular reporting to the County regarding that performance are necessary and appropriate to ensure consistent and reliable Service, and if Franchisee fails to meet its Performance Obligations then the County will suffer damages (including its Customers' inconvenience; anxiety, and frustration, criticism and complaint by Customers; potential political pressure; lost County Board and staff time; and loss of bargain secured through time-consuming and expensive procurement) and that it is and will be impracticable and extremely difficult to ascertain and determine the value thereof. In addition, if Franchisee fails to fully and timely satisfy its Performance Obligations or in the Event of Default, the urgency of protecting public health and safety may necessitate, as determined in the sole discretion of the Director, that the County enter into emergency or short term arrangements for services without competitive procurement at prices substantially greater than hereunder, and the monetary loss resulting therefrom is impossible to precisely quantify. Lastly, termination of this Agreement for Franchisee Default and other remedies provided hereunder are, at best, a means of future correction and not remedies that make the County whole for past Breaches and Franchisee Defaults. Therefore, the Parties agree that the liquidated damages listed in Exhibit 14.01 represent a reasonable estimate of the amount of said damages, considering all of the circumstances existing on the Commencement Date, including the relationship of the sums to the range of harm to the County that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. In signing this Agreement, each Party specifically confirms the accuracy of the statements made above and the fact that each Party 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.

13.02 Remedies Upon Default.

a. Remedy. 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 Performance Obligations only via formal action of the Board of Supervisors at a properly noticed meeting during open session. Franchisee shall be given the opportunity to be heard and to present evidence to support its position regarding the allegations of the Notice required immediately below.

Prior to that public meeting, the County shall serve Franchisee a Notice specifying that a particular Event of Default exists, which the Franchisee must cure or the County may terminate the Agreement, and offer to meet with the Franchisee within seven days of said Notice at the County offices to meet and confer in good faith in an effort to agree on a resolution and cure of the Event of Default. If the parties are unable to informally resolve the matters set forth in the Notice, the County may then terminate the Agreement at the public meeting described above:

- i. at least 30 days following the date of the Notice, if:

- a. The Event of Default does not constitute an imminent threat to public health and safety;
 - b. Franchisee has not cured the Event of Default, or has not taken, or diligently continued to take, reasonable steps necessary to commence to cure the Event of Default which cannot reasonably be cured within 30 days.
- ii. immediately following the date of the Notice if:
 - a. County determines that protection of public health and safety requires immediate termination; or
 - b. Franchisee fails to maintain insurance, bonds, or other assurances of performance required under this Agreement.

3. **Damages.** The County may exercise its remedies of damages (including damages in accordance with Section 14.01).

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 urgency of timely, continuous and high-quality Solid Waste management service under this Agreement, including collection, transportation and/or transfer for disposal of putrescible wastes which constitute a threat to public health; and for all of the reasons set forth in Section 14.01e. Therefore, the County is entitled to all available equitable remedies, including specific performance or injunctive relief.

b. Delivery Obligations. Franchisee further acknowledges that the County's remedy of damages for a breach of Section 7.01 by Franchisee (Failure to Deliver Materials to Designated Disposal Facility) may be inadequate and, consequently, that the County is entitled to all available equitable remedies, including specific performance and injunctive relief.

13.03 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; provided, however, if the County shall impose damages pursuant to Exhibit 14.01, such damages shall be the maximum amount of damages owed by Franchisee for such breach.

13.04 Waivers.

a. County Waiver of Breach. 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. The County's decision not to demand payment of damages will not be deemed a waiver of any Franchisee failure to satisfy any Performance Obligations. 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.

13.05 Governing Law, Jurisdiction, Venue.

a. Governing Law. The laws of the State of California shall govern the interpretation of this Agreement.

b. Jurisdiction. The Parties will bring any lawsuits arising out of this Agreement in California State Court, which will have exclusive jurisdiction over said lawsuits.

c. Venue. Venue will be made and performed in courts sitting in the County. Should any lawsuit be filed in Federal Court, exclusive venue shall lie in the Eastern District of California.

d. Other. The site of any other hearing or action, whether arbitration or non-judicial, of whatever nature or kind regarding this Agreement, shall be conducted in the County.

13.06 Costs. Franchisee agrees to pay to the County the County's Reimbursement Costs reasonably incurred by or on behalf of the County enforcing timely payment or performance of Franchisee's obligations under this Agreement.

13.07 Assurance of Performance.

If Franchisee:

- (1) is the subject of any labor unrest (including work stoppage or slowdown, sick-out, picketing or other concerted job action);
- (2) appears in the judgment of the County to be unable to regularly pay its bills as they become due based on, among other things, being or becoming insolvent or bankrupt, or ceasing to pay its debts as they mature, or making an arrangement with or for the benefit of its creditors, or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; or (ii) being or becoming a party to a voluntary or involuntary bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against the Franchisee under the laws of any jurisdiction, which proceeding, if involuntary in nature, has not been dismissed within sixty (60) days; or (iii) taking any action approving of, consenting to, or acquiescing in any such proceeding; or (iv) being a party to the levy of any distress, execution or attachment upon the property of the Franchisee which may substantially interfere with the Franchisee's performance hereunder; or
- (3) 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 or tax law;

and the County believes in good faith that Franchisee's ability to timely and fully perform Franchise Services has been placed in substantial jeopardy, the County may, at its option and in

addition to all other remedies it may have, demand from Franchisee reasonable assurances, including, but not limited to, those provided for under 111 USC Section 365(b)(1)(c), or any successor provision of the Federal Bankruptcy Code, of timely and full performance under this Agreement.

If Franchisee fails or refuses to provide reasonable assurances by the date required by the County, said failure or refusal will constitute an Event of Default.

13.08 County Right to Perform Franchise Services.

a. Events. The County may perform, or contract for the performance of, any or all of Franchisee's Performance Obligations, including the collection of Solid Waste or any portion thereof and transportation and delivery to a Solid Waste facility, upon the occurrence of the following events, determined by County in its sole discretion:

- (1) Franchisee, except for the occurrence or existence of an Uncontrollable Circumstance, fails, refuses or is unable for a period of seventy-two (72) hours to Collect and/or to transport, Solid Waste to a Solid Waste facility and the Director, in the exercise of his/her sole discretion, determines there is danger to the public health, safety or welfare.
 - i. Franchisee to Cooperate.* Franchisee agrees that in such event it will reasonably cooperate with County and its third-party contractor to affect such a transfer of operations in as smooth and efficient a fashion as is practicable.
 - ii. Franchisee to Pay Increased Costs.* All costs, fees, rates and other expenses incurred by the County and/or its third-party contractor that exceed those which would have been incurred by County had no such emergency arisen shall be the responsibility of the Franchisee, and shall be paid to the County within thirty (30) days of Franchisee receipt of Notice to so pay.

The County has no obligation to continue providing Franchise Services and may at any time, in its sole discretion, cease to provide Franchise Services. However, the County's right to provide Franchise Services including contracting with another Person, will continue until Franchisee can demonstrate to the County's satisfaction that Franchisee is ready, willing and able to resume timely and full Franchise Services.

b. Notice. The County may give Franchisee oral notice that the County is exercising its right to perform Franchise Services, which notice is effective immediately, but must confirm oral notice with Notice within 24 hours thereafter to extend County performance.

c. Records and Reports. Upon County request, Franchisee will promptly provide the County with immediate access and/or possession of Records, including those related to routing and billing.

ARTICLE 14. FRANCHISEE'S OBLIGATIONS UPON EXPIRATION OR TERMINATION

14.01 Pay Outstanding Amounts.

Franchisee will pay the County any County Payment Obligations or other amounts then accrued and payable.

14.02 Cooperation During Transition.

If Franchisee is not awarded an agreement to continue to provide Franchise Services following the expiration or termination of this Agreement, Franchisee will reasonably cooperate with the County and the succeeding Franchisee(s), contractor(s), licensee(s), permittee(s), or other Person(s) providing Solid Waste Handling Services to assure a smooth, efficient, orderly, timely and effective transition from Franchise Services to those Solid Waste Handling Services, including transfer of Records; complete routing information, route maps, and Customer billing lists, upon request of the County; providing other Records and reports required by this Agreement; and provide reasonable coordination with the County and any subsequent Franchisee(s), contractor(s), licensee(s), permittee(s), or other Person(s) with respect to exchanging Containers. Franchisee will not remove a Container from any Customer's premises until the earlier of: (1) the date replacement containers are provided to the Customer, or (2) 3 weeks after the expiration or termination of this Agreement. THIS OBLIGATION OF FRANCHISEE WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 15. THE PARTIES

15.01 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 Performance 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 directions, 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.

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

15.03 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.

15.04 Further Acts. 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.

15.05 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.

15.06 Franchisee's Obligations Performed at Its Sole Expense. Franchisee will perform Franchise Services solely for the compensation expressly provided for 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 satisfying its Performance Obligations.

15.07 Parties' Representatives.

a. County Representative. The County Representative is the Director unless otherwise named by the Board from time to time upon Notice of County Representative to Franchisee. The County Representative is authorized to act on behalf of the County in the administration of this Agreement and, unless otherwise specified, may take all actions set forth in this Agreement except termination, extension, amendment, and assignment consent, without Board action.

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

15.08 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. It agrees that it will exercise due diligence in performing Franchise Services.

15.09 Subcontracting.

Franchisee may not Subcontract any portion of the Franchise Services, including the provision of Bins and Containers, set forth in 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 (e.g., billing services, equipment maintenance).

Franchisee will not subcontract in a manner that effectuates an assignment of this Agreement, unless the provisions of this Agreement (including Section 17.01) related to assignment are met.

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

In its Annual Report, Franchisee will disclose to the County the name of all Subcontractors, the amount goods or services related to the provision of Franchise Services that each Subcontractor provides to Franchisee, and a description of Franchisee's relationships to each Subcontractor (including ownership interests).

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

ARTICLE 16. ASSIGNMENT AND AMENDMENTS

16.01 Assignment.

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. Franchisee Assignment. Franchisee acknowledges that the experience and expertise of Franchisee are material considerations of the County in entering into this Agreement with Franchisee. Franchisee may not Assign this Agreement except upon prior written consent of the County expressed by resolution. Franchisee may not circumvent the County's Assignment consent rights in practical effect by securing goods or services from a Subcontractor that would be itself subject to "assignment," where "Subcontractor" is substituted for "Franchisee" in the definition of "Assign" in subsection c. Any attempt to assign, or assignment of, this franchise without the prior written consent of County shall constitute a material breach of this Agreement.

c. Assign. "Assign" includes:

- (1) selling, exchanging or otherwise transferring effective control of management of the Franchisee (through sale, exchange or other transfer of outstanding stock or otherwise);
- (2) issuing new stock or selling, exchanging or otherwise transferring 20% or more of the then outstanding common stock of the Franchisee;
- (3) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of Ownership or control of Franchisee;
- (4) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of an execution, being levied against Franchisee, appointment of a receiver taking possession of any of Franchisee's tangible or intangible property;
- (5) substitution by a surety company providing any performance bond in accordance with Section 11.03 of another Person for Franchisee to perform Franchise Services;
- (6) sale or transfer of 50% or more of the value of assets of Franchisee except for sales or transfers to parents, grandparents, siblings, children, and grandchildren of persons having a shareholder or other equity interest in Franchisee as of the date of this Agreement ("Immediate Family") or trust created primarily to benefit members of the Immediate Family; and
- (7) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of Ownership or control of Franchisee.

d. Transfers to ESOP. Notwithstanding the above, Franchisee or its shareholders may, without consent of the County, transfer ownership of Franchisee's capital stock to an Employee Stock Option Plan (ESOP), or to current management employees of Franchisee.

e. Obtaining County Consent. County's consent shall not be unreasonably withheld, but the County may impose reasonable conditions of approval on any proposed Assignment. The following conditions must be satisfied prior to County's obligation to consider a proposed Assignment:

- (1) Franchisee shall give County at least ninety (90) days advance written notice of Franchisee's intent to Assign this Agreement. Such notice shall include at least:

- a. The name, address, telephone number and contact information of the proposed Assignee.
 - b. The nature of the legal entity owning or controlling the proposed Assignee, including the names, addresses and telephone numbers of all principals, partners and/or shareholders thereof, as the case may be; and
- (2) The proposed Assignee must be shown, by credible and sufficient evidence, to be qualified by financial condition, background, and experience, to be able to fully assume and satisfactorily perform all of Franchisee's obligations hereunder including, but not limited to, the ability comply with AB 939.
 - (3) Franchisee must not be in default under any of the material terms and conditions of this Agreement.
 - (4) The proposed Assignee must be willing to assume, in writing, all of the Franchise Obligations.

f. Franchise Transfer Application and Fee. Any application for a franchise transfer shall be made in a manner required by the Director. The application shall include a transfer fee deposit in an amount to be set by County, to cover the cost of all direct and indirect expenses, including administrative expenses incurred by the County, including any consultants and attorneys, necessary to adequately analyze the application. Such transfer fee shall not exceed ten thousand dollars (\$10,000). County's finally set transfer fee shall be billed to the proposed Assignee, and supported with evidence of the expenses and/or costs incurred. Assignee shall pay any such bill within thirty (30) days of receipt. The transfer fee is separate and distinct from Franchise Fees, and shall not be recoverable costs for any Fee setting purposes.

16.02 Amendments. The Parties may change, modify, supplement or amend this Agreement only upon written agreement duly authorized and executed by both Parties. However, wherever reports, forms, protocols, or other documents are attached to this Agreement as attachments to an Exhibit, the County Representative and Franchisee Representative may edit and revise them upon their agreement or otherwise provided in the related Sections of this Agreement, evidenced in writing *unless* this Agreement specifically requires approval by the County Board pursuant to resolution or otherwise.

ARTICLE 17. NOTICES, WRITING

17.01 Notices.

a. Manner. The Parties must give Notices at the address under Subsection c, 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.

If to County: Solid Waste Superintendent
Inyo County Department of Public Works
P.O. Drawer N
Independence, California 93526

Telephone: (760) 873-7191
Facsimile: (760) 873-5599
e-mail: rbenson@inyocounty.us

If to Franchisee: Bishop Waste
Mr. Roger Brown, General Manager
100 Sunland Indian Reservation Rd,
Bishop, CA 93514

With a copy to:

Waste Connections, Inc.
3 Waterway Square Place, Suite 110
The Woodlands, Texas 77380
Attn: Legal Department

Mr. Dale Comontofski, President
Preferred Septic and Disposal
1280 North Main Street, Suite I
Bishop, CA 93514

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

17.02 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.

ARTICLE 18. EXECUTION OF AGREEMENT

18.01 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 INYO:

FRANCHISEE:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to Form (County Counsel):

By: _____

Title: _____

Date: _____

Approved by Risk Management:

By: _____

Title: _____

Date: _____

EXHIBIT 1.01: DEFINITIONS

Whenever any term used in this Agreement is defined by the Inyo County Code Chapter 7.08 (the "Code") or Public Resources Code at Sections 40000 *et seq.* (the "Act"), said definitions shall apply unless the term is otherwise defined in this Agreement. To the extent that definitions in the Code conflict with definitions in the Act, the Code shall govern the rights and the obligations of the parties hereunder, to the extent permissible by law.

AB 341 means the Mandatory Commercial Recycling Regulation approved by the Office of Administrative Law in May 2012, Title 14, California Code of Regulations, Chapter 9.1, commencing with section 18835; as well as California SB 1018 signed by the Governor in June of 2012.

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 a business in which Franchisee has a direct or indirect Ownership interest, a business which has a direct or indirect Ownership interest in Franchisee and/or 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 which are incorporated herein by reference, as this Agreement may be amended and supplemented pursuant to Section 17.02.

Annual Report means the report described in Section 10.02b.

Applicable Law means all laws, statutes, rules, regulations, guidelines, Permits, actions, determinations, orders, or requirements of the United States, State of California, County (including its County Code together with rules and regulations promulgated thereunder and the County's Integrated Waste Management Plan), the Local Enforcement Agency, California Highway Patrol, applicable Air Quality Management District, and other regional or local government authorities, agencies, boards, commissions, courts or other bodies having applicable jurisdiction, that from time to time apply to or govern Franchise Services or the performance of the Parties' respective obligations under this Agreement, including any of the foregoing which concern health, safety, fire, mitigation monitoring plans, building codes, zoning, and further including:

1. Vehicles:

- (i) Section 43000 *et seq.* the California Health and Safety Code with respect to air emissions (smog checks);
- (ii) Section 27456b of the California Vehicle Code with respect to tires;

- (iii) Section 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;
- (iv) rules and regulations promulgated under the California Vehicle Code with respect to Vehicle highway lighting, flashing and warning lights, clearance lights, and warning flags;
- (v) rules and regulations of the California Department of Motor Vehicles with respect to Vehicle registration;
- (vi) Vehicle weight limits;
- (vii) the appropriate class of drivers' licenses issued by the California Department of Motor Vehicles;
- (viii) Control Measure for Diesel Particulate Matter from On-Road Heavy-Duty Residential and Commercial Solid Waste Collection Vehicles, 13 CCR 2020 *et seq.*;
- (ix) 14 CCR 17341, 17342, 17343 and 17344, with respect to equipment construction, safety and parking and identification of operating equipment.

2. Containers:

- (i) 14 CCR 17314 with respect to maintenance and placement of containers;
- (ii) 14 CCR 17317 with respect to placing identifying name and telephone number on containers.

3. Labor:

- (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);

4. Environmental protection:

- (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.*); and

5. Miscellaneous:

- (i) County Lobbyist Ordinance;
- (ii) Civil Rights Act of 1964 (Subchapter VI or Chapter 21 of Title 42);
- (iii) California Integrated Waste Management Act; and
- (iv) Inyo County Code.

Authorized Recycling Agent means a Franchisee the County designates as a provider of Waste Recycling Handling Services as set forth in Public Resources Code Section 41950.

Bins means metal containers for Collection of 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 Residential Customer's Cart, such as

- (1) furniture (including chairs, sofas, mattresses and rugs);
- (2) appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, small household appliances and other similar items commonly known as "**white goods**");
- (3) large Yard Wastes (including wood waste, tree branches, scrap wood); and
- (4) tires.

Carts means wheeled containers having a capacity of up to 96 gallons supplied by Franchisee for Collection of Customers' Solid Waste.

C&D Waste means used or discarded construction materials, packaging, and rubble removed from a premises during the construction or renovation of a structure resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures.

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.

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

Commercial or Commercial Premises means a premise that is not Residential, including premises where business activity is conducted, including offices, retail sales, services,

institutions, wholesale operations, food service, manufacturing and industrial operations, public property and facilities but excluding businesses conducted upon residential premises that are permitted under applicable zoning regulations and are not the primary use of the property. 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 toters, carts, cans, bins, vessels, receptacles or other containers from which Franchisee must Collect Solid Waste, including Bins and Roll-Offs approved by County.

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

County means the County of Inyo, a political subdivision of the State of California, or any governmental entity which may hereinafter assume waste management obligations of the County, 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 Indemnities, "County" also means its officers, employees, agents, franchisees, attorneys, administrators, affiliates, representatives, servants, insurers, heirs, assigns and any successor or successors to the County's interest.

County Code or **Code** means the Inyo County Code, including Title 7.

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 those listed under Sections 13.02 and 14.01, any County Reimbursement Costs, and any amounts accrued and payable upon termination of the Agreement in accordance with 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 the generators (including owners, tenants, occupants and/or persons having the care or control of any premises within the County) of Solid Waste to which Franchisee is required to provide Franchise Services.

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, unless otherwise identified by the County, the Bishop, Independence and Lone Pine Landfills, located in Inyo County.

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 Recycling & Waste Management or his/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.

Event of Default means as follows:

1. Service Defaults.
 - a. Missed Collections. Franchisee fails to provide collection services for a period of more than seven consecutive days, unless the failure is due to Uncontrollable Circumstances. For example, if franchisee fails to provide collection services on a Wednesday, an event of default will occur if franchisee fails to provide collection services by the Thursday of the following week (eight days thereafter);
 - b. Breach of Franchise Agreement.
 - i. Franchisee does not cure its failure to fully and timely perform any of its obligations under the Franchise Agreement (other than those obligations specifically listed in subsections (E)(1)(a), (E)(1)(b)(ii) and (iii), (E)(1)(c), (E)(1)(d), (E)(2) and (E)(3) of this section); within (1) thirty days following receipt of notice from the county identifying the failure, (2) a shorter period determined by the county if required to protect public health and safety, or (3) a longer period requested by franchisee and accepted by the county in the county's sole discretion.
 - ii. Franchisee fails to fully and timely satisfy ten or more of its obligations under the Franchise Agreement in any twelve-month period or repeatedly and habitually fails, in the judgment of the county, to satisfy them after notice from the county identifying the failures, regardless of whether franchisee subsequently cures a specific instance of failure.
 - c. Violation of Law. (1) Franchisee materially violates any law (including the County Code) and does not cure that violation to the satisfaction of county or applicable regulatory agency within thirty days of the notice, assessment or determination of that violation; or (2) franchisee repeatedly violates the same or different laws. Violation of the County Code will be evidenced by notices of noncompliance with the County Code issued by the local enforcement agency, Department of Public Works, or code compliance officer. If franchisee is entitled to and contests any violation by proceedings conducted in good faith, this event of

default will not be deemed to have occurred until a final decision adverse to franchisee is entered. "Violates" means any failure to comply with law as evidenced by notice, assessment or determination of any regulatory agency to franchisee, whether or not a fine or penalty is included, assessed, levied or attached.

2. Performance Assurance Defaults.

- a. Failure to Provide Insurance, Bond, or Letter of Credit. Franchisee fails to provide insurance, performance bond, or letter of credit as required by the Franchise Agreement.
- b. Failure to Provide Assurances of Performance. Franchisee fails to timely provide assurances of performance as required by the Franchise Agreement.
- c. Failure to Pay County. Franchisee fails to fully and timely pay county (1) more than twice within and calendar year, or (2) within twenty calendar days of demand by county for payment of moneys owing, or (3) as otherwise as provided by the Franchise Agreement.
- d. Transfer, Assignment. Franchisee transfers or assigns the Franchise Agreement without county approval.
- e. Seizure, Attachment. Any vehicle, equipment, or other service asset of franchisee is seized, attached or levied upon (other than a pre-judgment attachment) so as to substantially impair franchisee's ability to timely and fully perform solid waste collection services and which cannot be released, bonded or otherwise lifted within forty-eight hours, excepting weekends and holidays (as may be defined in the Franchise Agreement).
- f. Insolvency, Bankruptcy, Liquidation. Franchisee files a voluntary claim for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or will consent to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of vehicles, equipment, or other services assets no longer used to provide solid waste collection services), trustee (other than as security of an obligation under a deed of trust), custodian, sequestration, administrator (or similar official) of franchisee for any part of franchisee's operating assets or any substantial part of franchisee's property, or makes any general assignment for the benefit of franchisee's creditors, or fails generally to pay franchisee's debts as they become due or takes any action in furtherance of any of the foregoing.

A court having jurisdiction enters a decree or order for relief in respect of the Franchise Agreement, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or franchisee consents to or fails to oppose any such proceeding, or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, administrator (or similar official) of the franchisee or for any part of the franchisee's operating equipment or assets, or orders the winding up or liquidation of the affairs of the franchisee.

3. Miscellaneous.

a. **Fraud, Misrepresentations; Breach of Warranties.** Franchisee (1) committed any fraud or deceit in the procurement of a Franchise Agreement; (2) commits, or attempts to commit, any fraud or deceit upon the county following execution of the Franchise Agreement; (3) breaches a warranty in the Franchise Agreement; or (4) makes a material misrepresentation or false certification in the procurement of a Franchise Agreement or following execution of the Franchise Agreement or in the Franchise Agreement. Failure by the Franchisee to deliver solid waste to the Designated Disposal Facility, under Section 7.01 of this Agreement.

Existing Agreements means those Agreements entered into between Franchisee and a Commercial Customer prior to the Commencement Date of this Agreement which do not contain a provision or provisions allowing for amendment in the event of a change in law and which are set forth in Exhibit 13.01a.

Franchise Fee means the fee described in Section 13.02a.

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

Franchise Area means the geographical area within the County of Inyo.

Franchisee means [FRANCHISEE], and any assignee thereof consented to by the County in accordance with Section 17.01.

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 below under Unpermitted Waste.

Holidays means those days of each year when the Designated Disposal Site is closed, plus any additional days designated by Franchisee as Holidays, with the approval of 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.

Indemnities mean all defenses and indemnities under this Agreement.

Industrial Solid Waste means all Solid Waste and semisolid waste which results from industrial processes and manufacturing operations, except for Unpermitted Waste or Special Waste.

Liabilities includes: liabilities, lawsuits, claims, complaints, causes of action, citations, investigations, judgments, demands, clean-up orders, damages (whether in contract or tort, including

- (1) personal injury to or death of, at any time, Franchisee's employees, Subcontractors, the County or the public; and
- (2) property damage of Franchisee, Subcontractors, the County or the public),
- (3) costs and expenses, (including all costs and expenses of litigation, mediation or arbitration, attorney fees, whether County's or Franchisee's staff attorneys or outside attorneys, and court costs),
- (4) losses,
- (5) fines,
- (6) penalties, and
- (7) other detriments of every nature and description whatsoever,

whether under State of California or federal Applicable Law; and **Liabilities** arising from or attributable to any operations, repair, clean-up or detoxification, or preparation and implementation of any removal, remedial, response, closure, post-closure or other plan, regardless of whether undertaken due to government directive or action, such as remediation of surface or ground water contamination and replacement or restoration of natural resources.

Non-Collection Notice means either:

- (2) a 3-part (no carbon required) tag left by Franchisee for Customers at the times, in the events and in the manner described in Section 4.04 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 Section 18.01.

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.

Own or **Ownership** or other forms thereof means constructive ownership under the provisions of Section 318(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 318), as in effect on the date here, except that (1) 10% is substituted for 50% in Section 318(a)(2)(C) and in Section

318(a)(3)(C) thereof; and (2) Section 318(a)(5)(C) is disregarded. Where the Ownership interest is less than 10%, that interest is disregarded and percentage interests is determined on the basis of the percentage of voting interest or value which the Ownership interest represents, whichever is greater.

Party and Parties refers to the County and the Franchisee, individually and together.

Performance Obligations means Franchisee's liabilities and obligations under this Agreement.

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 any Person with respect to Franchise Services.

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 Inyo 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.

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.

Recyclables means materials that have been separated by the generator from the solid waste stream prior to disposal or which have been separated from the solid waste stream after disposal for the purpose of creating raw materials from which new products will be made or for the purpose of reusing them as a used or reconstituted product. Recyclables includes Yard Waste.

Recycling Handling Services means those same Solid Waste Handling Services as it pertains to Recyclables.

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).

Residential means a premise where individuals dwell or reside, regardless of whether they rent or own and occupy their dwelling or residence. "Residential premises" does not include transient occupancies. No place used primarily for business purposes shall be considered residential.

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 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 Set-out Site and Commercial Set-out Site.

Solid Waste means "solid waste" as defined in Public Resources Code Section 40191, except that "solid waste" does not include abandoned vehicles and parts thereof or dewatered, treated, or chemically fixed sewage sludge.

Solid Waste Handling Services means "solid waste handling" or "handling" as defined in Public Resources Code Section 40195 (i.e., the collection, transportation, storage, transfer, or processing of solid wastes) and solid waste disposal by a solid waste enterprise defined in Section 40193 of the Public Resources Code, such as residential or commercial refuse collection in packer-type vehicles by haulers whose core business is refuse collection or the small-scale collection and disposal of residential or commercial solid waste in any type of truck, trailer or vehicle; and the development and operation of solid waste facilities.

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, sexual identity, or sexual orientation, political affiliation, or any other class protected by laws of the State of California or the United States of America.

Term is the period beginning on the Commencement Date and ending on the earlier of the expiration of the Agreement under Section 3.01 or termination of the Agreement under Article 14.

Transfer Station means "transfer or processing station" as defined in Public Resources Code Section 30200.

Uncontrollable Circumstance(s) means any of the following events (1) riots, war or emergency affecting the county declared by the President of the United States or Congress of the United States, the Governor of California, or the board of supervisors; (2) sabotage, civil disturbance, insurrection, explosion; (3) natural disasters such as floods, earthquakes, landslides, avalanches, and fires; (4) significant storms, including excessive snow storms; (5) strikes, lockouts, and other labor disturbances; (6) any change in law, which materially impacts the rights and/or obligations of either party; or (7) other catastrophic events which are beyond the reasonable control of franchisee despite franchisee's exercise of reasonable due diligence.

Uncontrollable Circumstances exclude: (1) the financial inability of a Franchisee to satisfy its obligations under a Franchise Agreement; (2) the failure of a Franchisee to obtain any necessary permits or the right to use the facilities of any public entity; (3) a franchisee's or county's breach of obligations under a Franchise Agreement; (4) a Franchisee's inability to hire adequate numbers of personnel who are competent and skilled in the work to which they are assigned; (5) the failure of a franchisee to secure patents, licenses, trademarks, and the like necessary to provide the services; and (6) as to a Franchisee, the failure of any vehicles, equipment, or other service assets to perform in accordance with any warranties, unless caused by Uncontrollable Circumstances.

Unpermitted Waste is means materials that are not solid waste such as:

- a. "Hazardous waste" (as defined in Public Resources Code Section 40141), including:
 - i. Hazardous wastes that are "universal waste" (as defined and listed, respectively, in 22 CCR § 66723.9 and § 66261.9, such as batteries, thermostats, lamps, cathode ray tubes, computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, calculators, some appliances, aerosol cans and certain mercury-containing devices) exempt from the hazardous waste management requirements of Chapter 6.5 of Division 20 of the California Health and Safety Code and subject to the universal waste management requirements of Chapter 23 of Division 20 of the California Health and Safety Code, and
 - ii. Household hazardous wastes that result from products purchased by the general public for household use which, because of their quantity, concentration, physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed of or otherwise managed;

- b. "Medical waste" regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Part 9 of Division 104 of the Health and Safety Code), including, but not limited to, equipment, instruments, utensils, fomites, laboratory waste (including pathological specimens and fomites attendant thereto), surgical facilities, equipment, bedding and utensils (including pathological specimens and disposal fomites attendant thereto), sharps (hypodermic needles, syringes, etc.) dialysis unit waste, chemotherapeutic waste, animal carcasses, offal and body parts, biological materials, and other similar materials not rendered non-infectious, non-pathological and non-biohazardous.
- c. Radioactive waste;
- d. Waste tires in excess of the limitations prescribed in 14 CCR 17355(b) or reduced in volume as required in 14 CCR 17355(A); and
- e. Ammunition, explosives, or other ordnance.
- f. Any other materials that cannot be disposed of in class III sanitary landfills described in 27 CCR 20260.

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 means any failure to comply with law as evidenced by notice, assessment or determination of any regulatory agency to Franchisee, whether or not a fine or penalty is included, assessed, levied or attached.

Yard Waste means any wastes generated from the maintenance or alteration of public, commercial, or residential landscape including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush and weeds.

EXHIBIT 2.01: REPRESENTATIONS AND WARRANTIES

FRANCHISEE:

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.

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 thereunder.

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 Commencement 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 Performance 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.

COUNTY:

a. Existence and Powers: The County is duly organized and validly exists as a political subdivision of the State of California, with full legal right, power and authority to enter into and perform the obligations under this agreement.

b. Due Authorization and Binding Obligation: The County has duly authorized the execution and delivery of this agreement. This agreement has been duly executed and delivered by the County and constitutes the legal, valid and binding obligation of the contractor, enforceable against the County in accordance with its terms, except in so far as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditor's rights generally.

c. No Legal Prohibition: The County has no knowledge of any applicable law in effect on the agreement date which would prohibit the performance by the County of this agreement and the transactions contemplated hereby.

d. Information Supplied by the County: The information supplied by the County and all submittals made in connection with negotiation and award of this agreement is correct and complete in all material respects.

EXHIBIT 4.01a: WASTE COLLECTION AREAS

[SEE MAP OR LEGAL DESCRIPTION OF THE WASTE COLLECTION AREAS ATTACHED TO THIS EXHIBIT.]

The boundaries of any Waste Collection Areas depicted herein may be changed by action of the County Board of Supervisors. Such boundary change may include the removal of areas within the City of Bishop, or otherwise. The County acknowledges that any such action taken by the County may have the effect of changing Franchisee's Direct Costs which may entitle Franchisee to a Service Fee adjustment to compensate for the change in such costs. In any such event, Franchisee shall request a Service Fee adjustment in the same manner by which a request is made for a Change in Law as set forth in Section 13.01.d.1.iv of this Agreement.

**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,
- (2) Vehicles and equipment 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.

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 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:

- ◆ truck numbers,
- ◆ 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. Including:

- (1) financial records, books, accounts, and warranties corroborating the Franchise Fee owed to County under Section 13.02, including the all documentation required by Section 13.02; and
- (2) 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.

Any documentation with respect to insolvency, bankruptcy or liquidation 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 Performance Obligations including Delivery Obligations (Section 7.01) for the quarter or, alternatively, a description of those Performance 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) **Diversion 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:
 - ◆ Service fees charged for each type of service,
 - ◆ Service fees collected from Customers; and
 - ◆ Franchise Fees paid to County.

Quarterly Reports may be made on Form 10.02a which is attached to this Exhibit.

FORM 10.02a

INYO 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 Performance 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 Performance 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 collection and processing tonnages, and origin, in accordance with 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 c. Franchise fees paid to County</p>	<p><input type="checkbox"/> See Attached \$ _____ \$ _____</p>

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.
- (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).

Annual Reports may be made on Form 10.02b which is attached to this Exhibit.

FORM 10.02b

INYO 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>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 13.01a: SERVICE FEE FLOORS

Franchisee will not charge Customers Service Fees that are less than those identified below:

COMMERCIAL BIN SERVICE – AREA A & B

<u>Size</u>	<u>1/xWeek</u>	<u>2/xWeek</u>	<u>3/xWeek</u>	<u>4/xWeek</u>	<u>5/xWeek</u>	<u>6/xWeek</u>	<u>Ex P/U</u>	<u>Delivery</u>
2-yard	\$97.15	\$169.63	\$244.73	\$323.38	\$400.41	\$479.07	\$49.71	\$36.30
3-yard	\$145.38	\$254.30	\$367.26	\$485.24	\$600.62	\$718.60	\$74.39	\$36.30
4-yard	\$185.37	\$324.02	\$460.25	\$599.72	\$739.20	\$875.91	\$94.40	\$36.30
6-yard	\$278.13	\$486.04	\$690.55	\$899.59	\$1,108.79	\$1,313.78	\$141.64	\$36.30

RESIDENTIAL CURBSIDE CART SERVICE – AREAS A & B

<u>96 Gallon</u>	<u>Monthly Rate</u>	<u>Each Extra Cart</u>
1 Cart	\$31.37	\$21.61
<u>64 Gallon</u>	<u>Monthly Rate only 1 cart per household</u>	
1 Cart	\$	28.24

RESIDENTIAL CURBSIDE SERVICE (CUSTOMER OWNED CONTAINER) – AREA B – Cartago, Alabama Hills, Olancha, Darwin, Keeler

30-40 Gallon Container (Per month)

<u>1 &/or 2 cans</u>	<u>3-cans</u>	<u>4-cans</u>	<u>5-cans</u>	<u>6-cans</u>
\$46.73	\$63.94	\$84.66	\$103.63	\$122.59

ROLL OFF BIN SERVICE

<u>Size</u>	<u>Area</u>	<u>Full Rate Per Bin*</u>	<u>Compactor Roll-Off</u>
20 yard	Bishop	\$275.37	\$323.20
	Big Pine	\$323.20	\$387.85
	Independence	\$400.77	\$465.41
	Lone Pine	\$465.41	\$530.06
	Olancha	\$568.84	\$633.48
	Round Valley	\$323.20	\$387.85
	Starlite	\$323.20	\$387.85
30 yard	Bishop	\$413.70	\$478.34
	Big Pine	\$478.34	\$542.98
	Independence	\$555.91	\$620.55
	Lone Pine	\$620.55	\$685.19
	Olancha	\$723.98	\$788.62
	Round Valley	\$413.70	\$478.34
	Starlite	\$413.70	\$478.34

13.01a (continued)

*For first 14-day use period. Service includes: delivery, rental & service (landfill fees additional).

Full Rate applies after first 14-day period.

Hauler may offer a discount of up to 5% to all commercial customers paying in advance or within 30 days of invoice.

All commercial contract proposals must clearly delineate rates both before and after any discount is applied.

3/29/2019

DRAFT

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 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
- (iii) 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 current tipping fee. 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, even if Franchisee subsequently remedies that breach. (Franchisee nevertheless might 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 clean up spillage would result in liquidated damages on the day of the spillage and each following day until corrected.* Franchisee must pay damages regardless of whether or not it subsequently cures its breach.

The following is a schedule of liquidated damages for breaches of this Agreement.

DESCRIPTION OF BREACH	DAMAGES
Failure to properly cover materials in Collection vehicles or prevent littering of highways or streets.	Up to \$500 per failure over six (6) during any calendar year
Failure to clean up spillage or litter caused by Franchisee (7.03b, c)	Up to \$300 per failure per location.

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], Hazardous Waste Screening Protocol [5.06], or Insurance certificates or policies [Article 11].)	Up to \$300 per failure
Failure to perform any other Performance Obligation under this Agreement.	Up to \$100 per failure.

DRAFT



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

28

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time Closed Session Informational

FROM: Recycling & Waste Management

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT:

Consideration of Solid Waste Collection and Hauling Floor Rate Increase for Residential and Commercial Service for Permit Areas A & B of Inyo County.

DEPARTMENTAL RECOMMENDATION:

Request your Board approve a floor rate increase for residential, commercial, and roll-off service as described in attached rate chart.

SUMMARY DISCUSSION:

In June 2017 as a result of converting the gate fee structure at the Bishop landfill to a weight based system, your Board approved a major adjustment in the collection and hauling floor rate charged by the permitted haulers. Rates have not been reviewed since that date.

At this week's meeting, your Board will be considering a hauler franchise agreement. One of the terms in that agreement calls for an automatic rate adjustment on an annual basis. This floor rate adjustment is proposed in order to establish a new base rate prior to implementing the agreement.

The adjustment was calculated using the formula included in the franchise agreement. It revises the hauling portion of the current rate based on the garbage and trash collection component of the consumer price index as calculated by the Bureau of Labor Statistics. Since the effective date of the last rate increase this index has increased by 6.5%.

The new recommended rates are attached as Exhibit A. The rate review includes both commercial and residential services. If approved, the floor rate for residential collection would increase from a monthly charge of \$30.15 to \$31.37. The most common commercial charge is a 3 yard bin collected once a week. That charge would be revised upward from \$139.70 to \$145.38. This represents a 4% increase for consumers. The rates for all other services have also been increased accordingly.

As set forth in the Inyo County Code Section 7.08.150 "Charges", the Board of Supervisors shall approve a fair and equitable rate schedule for waste hauler charges.

ALTERNATIVES:

Your Board could choose not to grant an increase in the floor rate. If the franchise agreement is approved as written, this would necessitate a more drastic floor rate increase next year. It should be noted that the haulers are not bound to charge the floor rate and have the ability to increase rates at any time. However, this would be a departure from the traditional role of the floor rate.

Your Board could also authorize a lower floor rate than recommended.

OTHER AGENCY INVOLVEMENT:

None

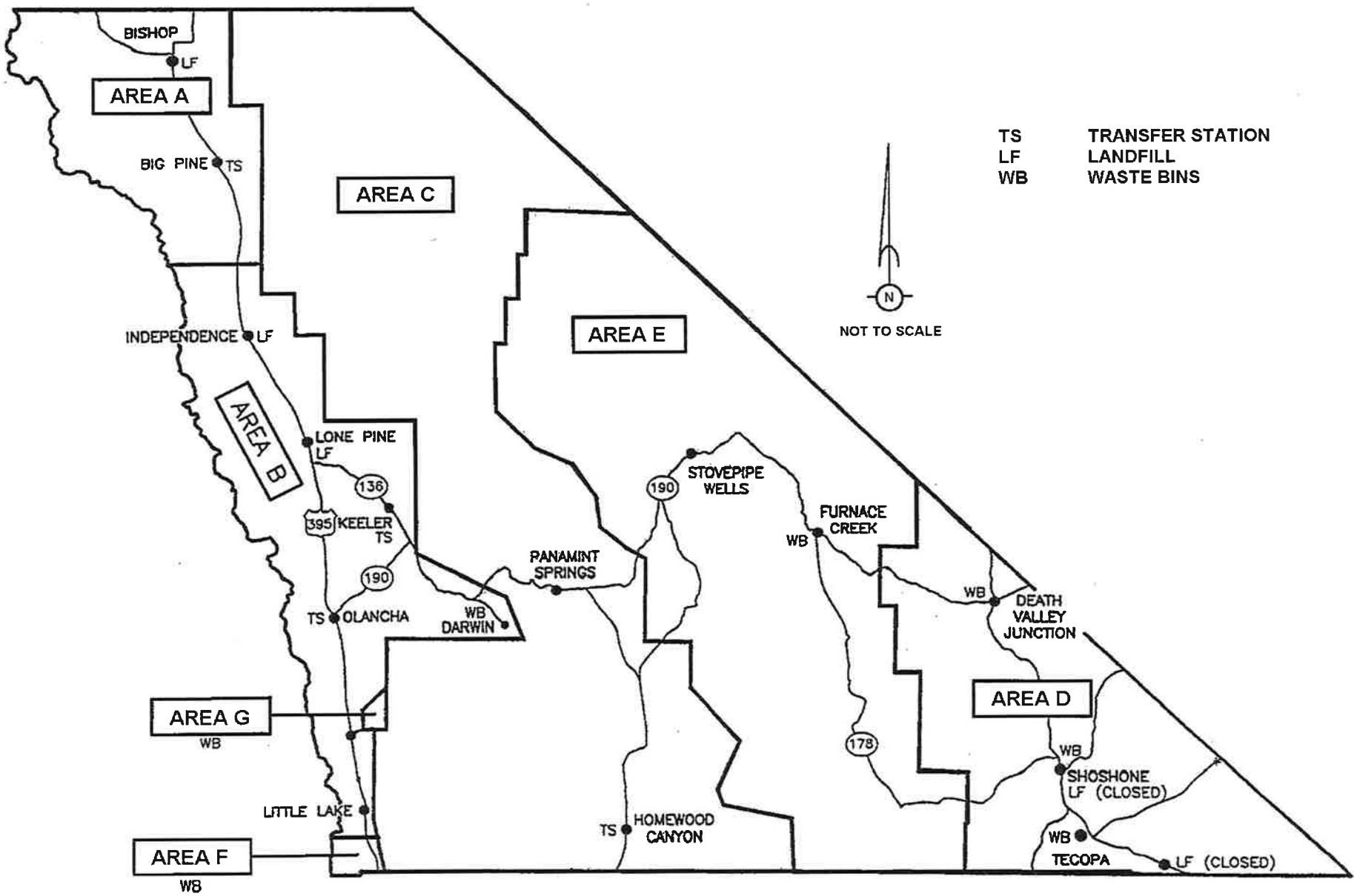
FINANCING:

There are no costs associated with an increase in the floor rate, however, additional revenues are expected to accrue to the enterprise fund through the franchise fee.

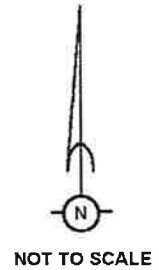
<u>APPROVALS</u>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: <u> N/A </u> Date <u> </u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: <u> N/A </u> Date <u> </u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: <u> N/A </u> Date <u> </u>

DEPARTMENT HEAD SIGNATURE: (Not to be signed until all approvals are received)

Richard J. Benson Date: 3/22/19



TS TRANSFER STATION
 LF LANDFILL
 WB WASTE BINS



INYO COUNTY
 INTEGRATED WASTE MANAGEMENT
 WASTE COLLECTION AREAS

EXHIBIT A
MINIMUM CHARGES FOR WASTE HAULING SERVICES
AREAS A & B
INYO COUNTY
 Effective June 1, 2019

COMMERCIAL BIN SERVICE – AREA A & B

<u>Size</u>	<u>1/xWeek</u>	<u>2/xWeek</u>	<u>3/xWeek</u>	<u>4/xWeek</u>	<u>5/xWeek</u>	<u>6/xWeek</u>	<u>Ex P/U</u>	<u>Delivery</u>
2-yard	\$97.15	\$169.63	\$244.73	\$323.38	\$400.41	\$479.07	\$49.71	\$36.30
3-yard	\$145.38	\$254.30	\$367.26	\$485.24	\$600.62	\$718.60	\$74.39	\$36.30
4-yard	\$185.37	\$324.02	\$460.25	\$599.72	\$739.20	\$875.91	\$94.40	\$36.30
6-yard	\$278.13	\$486.04	\$690.55	\$899.59	\$1,108.79	\$1,313.78	\$141.64	\$36.30

RESIDENTIAL CURBSIDE CART SERVICE – AREAS A & B

<u>96 Gallon</u>	<u>Monthly Rate</u>	<u>Each Extra Cart</u>
1 Cart	\$31.37	\$21.61
<u>64 Gallon</u>	<u>Monthly Rate only 1 cart per household</u>	
1 Cart	\$	28.24

**RESIDENTIAL CURBSIDE SERVICE (CUSTOMER OWNED CONTAINER) –
 AREA B – Cartago, Alabama Hills, Olancha, Darwin, Keeler**

30-40 Gallon Container (Per month)

<u>1 &/or 2 cans</u>	<u>3-cans</u>	<u>4-cans</u>	<u>5-cans</u>	<u>6-cans</u>
\$46.73	\$63.94	\$84.66	\$103.63	\$122.59

ROLL OFF BIN SERVICE

<u>Size</u>	<u>Area</u>	<u>Full Rate Per Bin* Compactor Roll-Off</u>	
20 yard	Bishop	\$275.37	\$323.20
	Big Pine	\$323.20	\$387.85
	Independence	\$400.77	\$465.41
	Lone Pine	\$465.41	\$530.06
	Olancha	\$568.84	\$633.48
	Round Valley	\$323.20	\$387.85
	Starlite	\$323.20	\$387.85
30 yard	Bishop	\$413.70	\$478.34
	Big Pine	\$478.34	\$542.98
	Independence	\$555.91	\$620.55
	Lone Pine	\$620.55	\$685.19
	Olancha	\$723.98	\$788.62
	Round Valley	\$413.70	\$478.34
	Starlite	\$413.70	\$478.34

*For first 14-day use period. Service includes: delivery, rental & service (landfill fees additional).
 Full Rate applies after first 14-day period.

These are the minimum allowable rates to be charged.
 Hauler may offer a discount of up to 5% to all commercial customers paying in advance or within 30 days of invoice.
 All commercial contract proposals must clearly delineate rates both before and after any discount is applied.

Special collection services not specified above shall be negotiated between the customer and the franchised waste hauler.

COMPARISON OF CURRENT TO PROPOSED RATES

CURRENT COMMERCIAL BIN SERVICE - AREA A&B

<u>Size</u>	<u>1/xWeek</u>	<u>2/xWeek</u>	<u>3/xWeek</u>	<u>4/xWeek</u>	<u>5/xWeek</u>	<u>6/xWeek</u>	<u>Ex P/U</u>	<u>Delivery</u>
2-yard	\$93.35	\$162.64	\$234.92	\$310.51	\$384.59	\$460.18	\$46.67	\$34.09
3-yard	\$139.70	\$243.82	\$352.53	\$465.92	\$576.88	\$690.27	\$69.85	\$34.09
4-yard	\$177.28	\$311.11	\$442.68	\$577.27	\$711.87	\$843.89	\$88.64	\$34.09
6-yard	\$265.99	\$466.67	\$664.18	\$865.92	\$1,067.79	\$1,265.75	\$132.99	\$34.09

PROPOSED

<u>Size</u>	<u>1/xWeek</u>	<u>2/xWeek</u>	<u>3/xWeek</u>	<u>4/xWeek</u>	<u>5/xWeek</u>	<u>6/xWeek</u>	<u>Ex P/U</u>	<u>Delivery</u>
2-yard	\$97.15	\$169.63	\$244.73	\$323.38	\$400.41	\$479.07	\$49.71	\$36.30
3-yard	\$145.38	\$254.30	\$367.26	\$485.24	\$600.62	\$718.60	\$74.39	\$36.30
4-yard	\$185.37	\$324.02	\$460.25	\$599.72	\$739.20	\$875.91	\$94.40	\$36.30
6-yard	\$278.13	\$486.04	\$690.55	\$899.59	\$1,108.79	\$1,313.78	\$141.64	\$36.30

CHANGE

<u>Size</u>	<u>1/xWeek</u>	<u>2/xWeek</u>	<u>3/xWeek</u>	<u>4/xWeek</u>	<u>5/xWeek</u>	<u>6/xWeek</u>	<u>Ex P/U</u>	<u>Delivery</u>
2-yard	\$3.80	\$6.99	\$9.81	\$12.87	\$15.82	\$18.89	\$3.03	\$2.22
3-yard	\$5.68	\$10.48	\$14.72	\$19.32	\$23.73	\$28.33	\$4.54	\$2.22
4-yard	\$8.09	\$12.92	\$17.57	\$22.45	\$27.33	\$32.02	\$5.76	\$2.22
6-yard	\$12.15	\$19.38	\$26.37	\$33.68	\$41.00	\$48.02	\$8.64	\$2.22

CURRENT RESIDENTIAL \$30.15

PROPOSED RESIDENTIAL \$31.37

CHANGE \$1.22



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 29

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: Clint G. Quilter, County Administrator

FOR THE BOARD MEETING: April 9, 2019

SUBJECT: Continuation of declaration of existence of local emergency

DEPARTMENTAL RECOMMENDATION:

Request Board discuss and consider staff's recommendation regarding continuation of the local emergency known as the "Here It Comes Emergency" that was proclaimed in anticipation of run-off conditions from near-record snowpack posing extreme peril to the safety of property and persons in Inyo County.

SUMMARY DISCUSSION:

During your March 28, 2017 Board of Supervisors meeting your Board took action to approve Resolution 2017-15 proclaiming the existence of a local emergency, which has been named the Here It Comes Emergency, in anticipation of run-off conditions from near-record snowpack posing extreme peril to the safety of property and persons in Inyo County and which are likely beyond the control of the services, personnel, equipment and facilities of the County of Inyo. During your June 27, 2017 meeting, your Board took action to amend Resolution 2017-15 to recognize that the County has moved from the Preparedness stage to the Response stage, and to include new damages and impacts that have occurred in the operational area.

In light of the massive amount of runoff that is occurring due to the unprecedented snowpack, the recommendation is that the emergency be continued on a biweekly basis and that Resolution 2017-15 be updated as necessary, until further evaluation of conditions are completed and staff makes the recommendation to end the emergency.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/A

FINANCING: N/A

APPROVALS

COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: _____ Date _____
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: _____ Date _____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
 (Not to be signed until all approvals are received)

Date: 04-01-19



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

30

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Clint G. Quilter, County Administrator

FOR THE BOARD MEETING: April 9, 2019

SUBJECT: Continuation of declaration of local emergency

DEPARTMENTAL RECOMMENDATION:

Request Board discuss and consider staff's recommendation regarding continuation of the local emergency known as the "Rocky Road Emergency" that was proclaimed as the result of flooding, mud, and rock landslides and deep snow drifts over portions of Inyo County caused by an atmospheric river weather phenomena that began January 3, 2017 and continued throughout February.

SUMMARY DISCUSSION:

During your February 7, 2017 Board of Supervisors meeting your Board took action to approve Resolution 2017-04 declaring a local emergency, which has been named The Rocky Road Emergency, and was the result of an atmospheric river weather phenomena that began January 3, 2017 and caused flooding, mud, and rock landslides and deep snow drifts over portions of Inyo County. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a biweekly basis. On March 7, 2017, your Board amended Resolution 2017-04 to further extend the continuation of the emergency and also add language to include additional damages that occurred in the latter half of January and into February.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/A

FINANCING: N/A

APPROVALS

COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: _____ Date _____
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: _____ Date _____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 04-1-19



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

31

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time Closed Session Informational

FROM: Recycling & Waste Management

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Hearing to consider adding late fees to delinquent gate fee account and approval of a gate fee policy.

DEPARTMENTAL RECOMMENDATION:

Request your Board 1) conduct a hearing to consider adding a late fee in the amount of 1.5% per month to gate fee accounts over 30 days delinquent; 2) approve the proposed late fee effective June 1, 2019; 3) adopt the resolution authorizing late fees; and 4) approve the attached Gate Fee Account Policy.

SUMMARY DISCUSSION:

Since the inception of gate fees at the Inyo County landfills the Waste Management Department has offered in-house gate fee accounts to businesses and individuals. Since the vast majority of account holders pay their bills on time no formal policy regarding gate fee accounts was ever established. Unfortunately, a few accounts have recently become delinquent. Since there is no policy regarding delinquent accounts, there is little the department can do to collect past due fees. Therefore, it is requested that your Board approve late fees on delinquent gate fee accounts and approve a policy regarding gate fees.

Department staff is recommending a late fee of 1 ½% per month on any account 30 days or more past due. In order to impose this fee it is required that your Board conduct a hearing and receive input both in favor and in opposition to the fee. At the conclusion of the hearing if your Board wishes to enact the fee it will be necessary to adopt the attached resolution.

Staff has also developed an overall policy regarding gate fees. The proposed policy is attached as Attachment A. It is recommended that your Board approve the Gate Fee Policy so that the department and the public have clear guidelines regarding accounts. In addition to reiterating the late fee charges, the policy allows the department to suspend accounts for nonpayment and close accounts in the case of habitual offenders. The policy also authorizes the department to take actions to collect gate fees either through a collection agency or the courts.

ALTERNATIVES:

Your Board could choose not to establish a late fee or approve of fee other than what is recommended by staff. Your Board is also able to modify the recommended gate fee policy. Without a late fee and policy the Solid Waste Enterprise Fund is subject to losing revenues.

FINANCING:

There is no cost to the County to implement a late fee. If adopted as recommended, the new policy is likely to modestly enhance revenues and improve cash flow in the department.

APPROVALS

COUNTY COUNSEL: <i>G. Cherches</i>	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: <u>yes</u> Date <u>3/28/19</u>
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Richard J. Bowen

Date: 3/28/19

ATTACHMENT A

Gate Fee Account Policy

1. Persons disposing of solid waste at Inyo County ("County") waste facilities shall pay the required gate fees prior to waste disposal or shall have made payment arrangements with the Department in accordance with the gate fee payment options set forth herein.
2. In addition to cash, County may also accept business checks, personal checks, money orders and cashier's checks as payment for gate fees.
3. Any person that disposes waste at a County waste facility and is subject to payment of gate fees may apply for a gate fee account with the Inyo County Recycling and Waste Management Department ("Department"). Any person applying for a gate fee account shall complete the Department's gate fee application and an authorization for a credit check. The completed application and credit check authorization must be delivered to the Department. The Director may determine if a person is qualified to dispose of waste on credit, based on that person's credit history and the amount of waste that person plans to dispose at County waste facilities.

The Director may deny credit to unqualified applicants, set appropriate credit limits for unqualified applicants, or require the payment of a security deposit for unqualified applicants. The security deposit shall not exceed the Director's reasonable estimate of the applicant's anticipated usage in a one month period. Actual usage will then be monitored on a monthly basis until a 12-month history is established; the security deposit may be adjusted following this 12-month period, if necessary. No credit shall be extended prior to the Director's approval of the gate fee account application. Gate fee account procedures shall be as follows:

- a. The Department may send a monthly statement of gate fees charged to each person with a gate fee account. The statement will indicate the amount due the County. Statements shall be due as of the statement date.
- b. Persons with a gate fee account, that have not received a statement by the 15th of any month, may call the Department to verify their account's activity for the previous month.
- c. All payments on gate fee accounts shall be made payable to the "Inyo County Waste Management" and shall be mailed or delivered to the address indicated on the statement.
- d. Any statement for a fee charged to any person shall become delinquent thirty (30) days after the statement date.
- e. Upon delinquency, the account privileges of the person with the gate fee account shall become suspended and no additional charges may be made to that account until the delinquent amount due has been paid.
- f. Upon delinquency, a penalty in the amount of one and one half (1.5%) of the delinquent amount shall be added to the account per month.
- g. Partial payments may be made and shall be accepted, but partial payments shall not remove a gate fee account from a delinquent or suspended status.

h. Suspended gate fee account privileges may be reinstated upon the receipt by the Department of full payment of all monies due and the approval of the Director.

i. If the Director determines at any time that any person holding a gate fee account has allowed the gate fee account privileges of that person to remain suspended for a period of thirty (30) days or has had two (2) suspensions in any twelve (12) month period, the Director may revoke the gate fee account privileges of that person or require the posting of a security deposit. Should the Director determine in his or her discretion to accept the posting of a security deposit in lieu of the revocation of the user's gate fee account privileged, the amount of this security deposit shall be set at the user's highest monthly balance from the preceding 12 months of usage.

j. Persons desiring to close a gate fee account must notify the Director in writing. Gate fee accounts may be closed only after the Director has determined that all necessary charges have been applied to the account and all charges have been paid.

4. Anyone may post an advance payment of required gate fees at any time. Such advance payments may be applied to any accrued gate fees until the advance payment has been exhausted. A person may replenish or increase the amount of the advance payment at any time. Upon request, the Director shall refund any portion of such advance payment which has not been applied to accrued gate fees.

5. Any check returned unpaid is subject to a \$25 returned check fee.

6. State law authorizes the County to bring legal action to collect delinquent charges, therefore, in addition to the actions described above; the County may pursue collection of unpaid amounts using any authorized means to include referral to a collection agency and/or court action.

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF INYO, STATE OF CALIFORNIA, AMENDING THE SCHEDULE
OF SOLID WASTE SERVICE CHARGES (GATE FEES) TO INCLUDE LATE FEES FOR
COUNTY GATE FEE ACCOUNTS

WHEREAS, per Government Code Section 25823 the Board of Supervisors may make and enforce all necessary and proper regulations for the use of disposal facilities not in conflict with the Constitution and the laws of the State; and

WHEREAS, Section 7.10.080 of the Inyo County Code requires that the Board of Supervisors establish fee schedules and regulations governing the collection of fees for the use of the facilities at any county operated landfill or disposal site; and

WHEREAS, the Board of Supervisors has conducted a duly-noticed public hearing regarding certain proposed solid waste management service charges (gate fees) in accordance with Government Code Section 66018 and other applicable laws; and

WHEREAS, based on the testimony presented at the public hearing as well as the oral and written staff reports also presented to the Board in connection with the hearing, the Board finds and determines that the service charges (gate fees) set forth in this Resolution will not exceed the County's reasonable costs of providing the services for which the fees are charged and that the manner in which those costs are allocated to the fee payers bears a reasonable relationship to the payers' benefits received from the services.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Inyo as follows:

1. Effective June 1, 2019, any Gate Fee account becomes delinquent 30 days following the statement date.
2. In addition to those gate fees previously adopted, effective June 1, 2019, upon delinquency a penalty in the amount of one and one half (1.5%) of the delinquent amount shall be added to the account per month.
3. The rate schedule as herein specified is effective until changed by resolution of this Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors, County of Inyo, State of California, this 9th day of April 2019, by the following vote:

AYES:
NOES:
ABSENT:

Chairperson
INYO COUNTY BOARD OF SUPERVISORS

*ATTEST: Clint Quilter
Clerk of the Board*

by: _____
Darcy Ellis, Assistant



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

32

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: April 9, 2019

SUBJECT: Workshop on current status of Short-Term Rentals in Inyo County and Implementation of the County's Short-Term Rental Ordinance.

RECOMMENDATION:

- Receive a presentation from staff regarding the status of short-term rentals in Inyo County, approximately one year after the Planning Department began to accepting applications; and
- Provide direction to the Planning Department on Short-Term Rental policy, and any elements that may require review or revision.

SUMMARY DISCUSSION:

Background

Until the implementation of the County's short-term rental ordinance in 2018, the Inyo County Code did not directly address short-term rentals and staff had operated off a 2006 finding by the Board of Supervisors that short-term rentals were not an allowed use in the County's residential zones, and were considered zoning violations. In the years between 2006 and 2016 short-term rentals became more of an issue in the County, the State and the entire country, with the increasing popularity of renting properties in single family zoning districts, through on-line services.

From October 2016 through May of 2017 the Planning Department made a series of presentations to the Board of Supervisors and the Planning Commission, providing background and research on the issues of short-term rentals and receiving direction on starting to develop policy around them. Between June 19, 2017 and July 6, 2017, Planning Department staff conducted a series of community workshops to collect input from the County populace. These workshops occurred in Bishop, Big Pine, Independence, Lone Pine and Tecopa. Starting in August of 2017, the Planning Department worked to take the information collected from the community as well as input from the Planning Commission and Board of Supervisors, and formulated a draft ordinance, which was refined, finalized and adopted in February of 2018. Two types of permits were addressed in the ordinance: Hosted Short-Term Rental permits, where the owner of a property is the host, and resides in the rented residence while renting rooms within the house to guests; and Non-Hosted Short-Term Rental permits, where the renter has use of an entire residence, and the property is managed by a property manager. The Planning Department began accepting permit applications on April 20th, 2018, and the first permit was issued on May 29th, 2018.

Current Status Report

Attached to this Agenda Request Form is a report on the state of short-term rentals in Inyo County as of today. The workshop will summarize the findings of the report. The report will cover the following:

- Numbers and statistics relating to issued permits for short term rentals in the County. Currently there are 30 distinct properties that are permitted for short-term rental in the County, 16 of them hosted and 14 of them non-hosted.
- Numbers and statistics relating to code enforcement of non-permitted short-term rentals in the County. The Planning Department has issued 31 Notices of Violation and 30 of the 31 are either now in compliance or on a path towards compliance.
- A look at staff time spent on short-term rental code enforcement as well as outside contract services that could be available to the County for Code Enforcement.
- A review of staff implementation of the permitting process.
- A review of the complaint process for permitted short-term rentals and the statistics for complaints received on permitted short-term rentals.
- A review of a survey of current short-term rental permittees on the uses of their residences prior to use as a short-term rental and also their comments on the permitting process.
- Planning Department staff comments on issues with implementation of the code in its current form.

NEXT STEPS: A form of this presentation will be given to the Planning Commission on April 24, 2017 and input from the Commission gathered at that time. If required, the Planning Department will return to the Board with answers to any questions raised by this report and workshop, and draft development policy, if so directed by the Board

OTHER AGENCY INVOLVEMENT: Inyo County Treasurer/Tax Collector, Inyo County Assessor, Inyo County Environmental Health Department and Inyo County Building and Safety.

FINANCING: General fund resources are utilized for this review and for the code enforcement portion of our short-term rental ordinance implementation. Short-term rental permits are subject to permit fees on a cost recovery basis.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)



Date: 4/4/2019

Attachment: Status of Short Term Rentals in Inyo County Report, Dated April 3, 2019

Status of Short Term Rentals in Inyo County

Prepared April 3, 2019

Background

In February 2018, the Inyo County Board of Supervisors passed an ordinance allowing for short-term rentals to be permitted within the County. Two types of permits were addressed in the ordinance: hosted short-term rental permits, where the owner of a property is the host, and resides in the rented residence while renting rooms within the house to guests; and non-hosted short-term rental permits, where the renter has use of an entire residence, and the property is managed by a property manager. The Planning Department began excepting applications for short-term rentals on April 20, 2018.

Additionally, with the passage of the ordinance, the Planning Department also has the authority to issue Notices of Violation to unpermitted short-term rentals. After an initial grace period to encourage compliance, the Planning Department began code enforcement on non-permitted short-term rentals in late July, 2018.

This evaluation of the current status of short-term rentals in the County will address:

- Numbers and statistics relating to issued permits for short term rentals in the County
- Numbers and statistics relating to code enforcement of non-permitted short-term rentals in the County
- A look at staff time spent on short-term rental code enforcement as well as outside contract services that could be available to the County for code enforcement.
- A review of staff implementation of the permitting process.
- A review of the complaint process for permitted short-term rentals and the statistics for complaints received on permitted short-term rentals.
- A review of a survey of our current short-term rental permittees on the uses of their residences prior to use as a short-term rental and also their comments on the permitting process.
- Planning Department staff comments on issues with implementation of the code in its current form.

Permits Issued for Short-Term Rentals

The Planning Department has issued 29 hosted permits and 14 non-hosted permits. The County ordinance, as passed, requires applicants for non-hosted permits to first have a hosted permit. Of the 29 hosted permits, 13 were obtained solely for the purpose of obtaining a non-hosted permit, and the applicant has no intent to utilize these hosted permits except as a stepping stone to obtaining the non-hosted permit, therefore, there are 30 distinct short-term rental units permitted to rent in the County (16 hosted and 14 non-hosted) since the adoption of the ordinance in February 2018. There are 3 operators who have both an active hosted short-term

rental and a non-hosted short term rental. A list of all of the approved short-term rentals is Attachment A to this report. Maps of the locations of these short-term rentals are attachments B through F.

Currently the Planning Department has 6 short term rental permits that are being processed. Of these, 2 already have obtained their approval for the hosted permits, and 4 of the permits are still pending. All 6 of these non-hosted permits are obtaining the hosted permit solely for the purpose of obtaining the non-hosted permit. The Planning Department also has 1 hosted permit that is being processed that is not associated with a non-hosted rental.

A Breakdown of Permits by Community

<u>Community</u>	<u>Total Permits</u>	<u>Hosted</u>	<u>Non-Hosted</u>
Bishop area	6	3	3
Bishop Outskirts Wilkerson/Starlite/40 Acres/Aspendell	6	2	4
Big Pine	3	2	1
Lone Pine	8	5	3
Alabama Hills	6	3	3
Tecopa	1	1	0

The Planning Department has also looked at the contentiousness of the permits that have been permitted. Of the 30 rentals, 4 have had 2 or more neighbors contact the Planning Department by phone or mail or speak out at the Planning Commission during the permit process. These calls related to short-term rentals in West Bishop, McLaren, Aspendell and the Alabama Hills. Two additional short-term rentals have had 1 neighbor each that has voiced significant levels of concern (both of these were by mail). For the remaining 24 there have been no significant objections raised by neighbors. Some of the hosted permits did have general concerns about short-term rentals expressed on the comment line of their Neighborhood Agreement Form, but because those comments were not project specific, and did not go into any depth, they were not included in those with complaints.

Enforcement of Non-Permitted Short-Term Rentals

The Planning Department has issued 31 Notices of Violation via certified mail to property owners who have an unpermitted short-term rental operating on their property. Because of substantial initial numbers, enforcement has happened in 3 waves. Unpermitted short-term rentals in the greater Bishop and Big Pine areas were notified in July and August of 2018; along the southern 395 corridor in October and November of 2018 and in the areas east of the Owens Valley in February 2019. With each successive wave, previous checked areas were back-checked for updated status of the previous Notices of Violations as well as checked for any new unpermitted short-term rentals that had begun advertising in the previously checked areas.

The current status of the 31 Notices of Violation is as follows:

- 9 responded to the Notice of Violation and indicated that they were closing their rental, which was later verified. Those that closed fell into 3 categories: Operators who felt that the County's process was too onerous or costly; Operators who were just experimenting and this helped finalize their decision not to pursue short-term rentals; and operators who were in an R2 zone where short-term rentals were not permitted.
- 5 operators or property owners never responded, but subsequent research by staff showed that their operations were no longer active.
- 11 submitted applications for short-term rental permits.
- 2, from the last wave of enforcement, have been in communication with the Planning Department and are in the process of getting applications in.
- 3 were exempt from our Short-Term Rental Ordinance. 2 of these were in an RV park where a CUP allows for nightly rental of the spaces. The third was operating as a long-term rental, actually catering to month-to-month rentals, and modified its online advertising to make this clearer.
- 1 is still an ongoing matter, as the certified letter sent to the address in the tax records was returned.

While putting together this report, 5 more possible unpermitted short-term rentals were identified, and research and, if appropriate, Notices of Violation will be sent out this month.

Staff Time for Enforcement of Code and Contract Services

As of February 2019, Staff has spent approximately 100 hours on code enforcement, and the billable rate for an Associate Planner is approximately \$50 per hour, so this represents about \$5,000 investment by the County in initial enforcement. Future staff time for enforcement is estimated at 10-20 hours per quarter, or \$500 to \$1,000 per quarter in staff time expense.

Several services provide short-term rental code enforcement services to municipalities. Planning Department staff contacted three of these firms. The firms were Harmari, by LTAS Technologies, Inc.; LODGINGRevs; and Host Compliance. All of these companies provide unpermitted rental detection, and the access to a website where information on permitted and unpermitted rentals is gathered so it can be viewed in various formats. Other services they provide are: oversight of the application process (for very simple processes...basically form and fee collection); mailing of letters and robocalling for enforcement; use of computer analysis to predict transient occupancy tax for a rental for use in tax collection compliance; and providing a complaint hot-line. Almost all of these services would be automated. Host Compliance is currently being used by the Town of Mammoth Lakes, and is currently merging with another company, STR Helper by Bear Cloud Software. Staff received proposals from all three of these companies

A summary of pricing estimates that were given for Inyo County:

Harmari - \$2,500 for first year, and then \$1,250 for each following year

LODGINGRevs - \$1,000 initial fee and then \$300 per month (or \$3,600 per year)

Host Compliance - \$2,640 per year for Address Identification, \$1,320 per year for Compliance Monitoring (\$3,960 per year total)

These plans, while different in the details, all will identify rentals, sort them into permitted and unpermitted and then provide data on both that is accessible online. For the prices above, enforcement would still be on the County. Services for application acceptance and enforcement did not seem to cover the County's process.

In general, the Planning Department found that these services would be very valuable to a municipality with hundreds to thousands of rentals, but costs were not justified for the small amount of rentals in Inyo County, especially given the amount of enforcement responsibilities that would still be on staff even with the implementation of one of these programs.

4 pages of the 38 page Host Compliance proposal are included to give a flavor of what these companies offer as Attachment G

The Permitting Process

Often owners interested in getting a short-term rental contact the Planning office either via phone or stopping by the front counter. Staff will generally do the following:

- Provide an application
- Provide a hand-out that goes through all of the requirements for a hosted or non-hosted permit
- Discuss with the potential applicant the differences between hosted and non-hosted permits and which is applicable to them.
- Review the zoning of the potential applicant's property and make sure short-term rentals are permitted on their property.
- Review the items that need to be submitted that are sometimes troubling to applicants, particularly the site/parking plan and the house rules.

Once an application is received, the process is slightly different for the two types of permits.

Hosted Short-Term Rentals

1. Review the application and make sure all elements required are present
2. Route the application to 3 other departments for review: Environmental Health Department, Assessor's Department, and the Building and Safety Department. Staff requests 10 business days for this review.

3. Within a week of receiving the application, the planner in charge of a project will provide the applicant with the Neighborhood Agreement Form, after utilizing GIS to identify the addresses of all properties within 300' of the project property.
4. Thoroughly review the application for compliance with the short-term rental code.
5. If any deficiencies are noted by either the project planner or from the review by other departments, the applicant is sent an Incomplete Application Letter, and elements that need to be provided or fixed are described in the letter.
6. The applicant must also provide the completed Neighborhood Agreement Form to the Planning Department, on which they have obtained signatures and possibly comments from their neighbors. The applicant is required to obtain as many signatures as possible. If a property is vacant, or no resident is present, the applicant must note that in the comments. The form specifies that the applicant must make a diligent effort to obtain a signature. Staff has considered 3 attempts at different days and different times of day to be an adequate effort. Staff has allowed, on a limited basis, applicants to forego getting a signature if they have reason to believe that the attempt could result in verbal or bodily harm. All signatures not obtained must be fully documented as to why on the form. If the form is not deemed complete it will be returned to the applicant for completion.
7. Once the application and the Neighborhood Agreement form are complete, an approval letter is drafted and signed by the director. The approval letter can include conditions of approval which would be based on issues raised by County staff or on the Neighborhood Agreement Form.
8. After the project is approved, a letter is sent to all of the property owners within 300 feet to let them know a short-term rental has been approved within 300 feet of their property and giving them the emergency contact information for the host and at least one additional contact. A letter is sent, at the same time, to the applicant and includes their obligations in the event of a complaint and also in the event that any contact information changes.

Non-Hosted Short-Term Rentals

1. Review the application and make sure all elements required are present.
2. Route the application to 3 other departments for review: Environmental Health Department, Assessor's Department, and the Building and Safety Department. Staff requests 10 business days for this review.
3. Thoroughly review the application for compliance with the short-term rental code.
4. If any deficiencies are noted by either the project planner or from the review by other departments, the applicant is sent an Incomplete Application Letter, and elements that need to be provided or fixed are described in the letter.
5. Before proceeding any further with a Non-Hosted Permit Application, the associated Hosted Permit must be obtained. Originally Planning Department staff allowed the

Hosted and Non-Hosted permits to run through both processes concurrently, as long as it was evident that the hosted permit process was completed first, but because this resulted in some confusion among neighbors as they were being notified by the two different methods for the two different processes, at around the same time, staff now will only proceed with the Public Hearing for a Non-Hosted Permit once the Hosted Permit is approved.

6. Prepare a Planning Commission Staff Report for the project, including descriptions, Code compliance, General Plan compatibility, CEQA compliance and other relevant information for the Planning Commission to utilize in their evaluation of the project.
7. Provide proper notification of the public hearing in front of the Planning Commission. This includes a notification in the Inyo Register and mailing of notices to all property owners within 300'.
8. Staff then presents the project to the Planning Commission for their approval or denial. The Planning Commission may also approve with conditions.
9. After the Planning Commission meeting, staff prepares a Notice of Decision, which provides the applicant a written record of the decision of the Planning Commission and lets the applicant know the appeal policies.
10. To date, all Non-Hosted Short Term Rental permits have been exempt from CEQA and it is anticipated that will predominately be the case. After approval a Notice of Exemption from CEQA is filed with the County Recorder.
9. After the project is approved, a letter is sent to all of the property owners within 300 feet to let them know a short-term rental has been approved within 300 feet of their property and includes the emergency contact information for property manager. A letter is sent at the same time to the applicant and contains their obligations in the event of a complaint and also in the event that any contact information changes.

Complaints Against Permitted Short-Term Rentals

If an applicant receives a complaint about their short-term rental, the County Code obligates them to notify the Planning Department of the complaint. Failure to do so could result in revocation of the permit. If the applicant receives a complaint, they may have to demonstrate what they are doing to prevent future complaints. Failure to address a complaint or a pattern of complaints can result in revocation of the short-term rental permit.

At this time, the Planning Department has only been made aware of 2 complaints against a permitted short-term rental. Both complaints were against the same rental. The 1st complaint was about a guest's car alarm that went off at 9:45 p.m. It took the neighbor about 15 minutes from the neighbor contacting the emergency contact to the operator being able to contact the renters. By the time the operator contacted the renter the alarm had been stopped. On the following day, the neighbor contacted the Planning Department and pointed out that the operator was required to contact the Planning Department, which had not happened yet. A standard letter was sent to the operator reminding them of their obligation to notify the

Planning Department of any complaint that arose out of this incident. The second complaint was that a tenant, on their own accord, wheeled the trash can out to the street, where strong winds blew the lid of the trash can open and scattered paper products around the neighborhood. The operator properly notified the County of the complaint and also arranged for a dumpster to be put on the property, so that there would be not trash at any time out on the street. The operator arranged the dumpster pro-actively and provided paperwork documenting the dumpster rental to the County.

Survey of Operators of Permitted Short Term Rentals

Staff contacted all applicants who now have been awarded short-term rental permits in the County. Of the 30 short-term rentals permitted to operate in the County, staff obtained responses from the operators of 24 of the rentals (21 individuals, as there are 3 operators of both hosted and non-hosted rentals). The following questions were asked:

1. Did you stop operating as a long-term rental in order to operate as a short-term rental?
2. Have you ever operated this property as a long-term rental?
3. Did you purchase or construct this property with the intent of operating it as a short-term rental?
4. Do you live in the residence you rent or on the same property?
5. Do you have any comments, negative or positive, about the process you had to go through to obtain your short-term rental permit?

And following is a summary of the results of this survey

1. 5 of the 24 rentals (21%) surveyed had been used as a long-term rental immediately prior to operating as a short-term rental
2. 11 of the 24 rentals (46%) surveyed had been used as a long-term rental at some point.
A side note, 4 of the people who had responded that their residence had been used for a long-term rental went on to say that the renters were month-to-month like the traveling nurses that work at Northern Inyo Hospital and that they would still rent to those "medium-term" renters again if the opportunity came up.
3. 4 of the 24 rentals (17%) surveyed indicated that they purchased or constructed the residence with the intent of operating it as a short-term rental.
4. 16 of the 24 rentals (67%) surveyed indicated that they lived on the same property as the rental. Conversely, 8 of 24 rentals (33%) lived off site.
5. The responses to question 5 varied, but the main highlights are listed below (if a comment was received multiple times, that number of times is indicated in a parentheses after the comment):
 - No comment other than very happy with the whole process (7)

- It does not make sense that they had to get a hosted permit to get a non-hosted permit (3)
- Did not like having to go door to door to the neighbors (2)
- The form should not be called a Neighborhood Agreement form when its purpose is acknowledgment and not agreement. (2)
- The 300' radius to get signatures is too large. Covers properties that are on other streets that seem unaffected by the rental. (2)
- The combined permit fee for the hosted plus non-hosted seems a bit too expensive. (2)
- It's fine that the County is regulating this, but there should be some sort of regulation of the campers living in the Buttermilks that are living for free and making a mess too.
- The process seems overly bureaucratic, and while that might be required, more explanation of why the applicant is doing what they are doing would be nice.
- While hosted rentals should be permitted, non-hosted rentals should not be permitted. The operator should be in the house.
- It would be nice if the taxes could come out automatically with AirBnB and then the operators would not have to send them in separately to the Tax Collector.

Copies of the raw survey results are Attachment H

Planning Department Staff Recommendations for Modifications to the Code

Two items seem to be the most troubling while implementing this code:

- The form that the applicants for Hosted Short-Term permits must obtain signatures on is called the "Neighborhood Agreement Form". This name is specified in the Inyo County Code. The instructions on the form attempt to make clear that signing the form is an acknowledgment that a short-term rental is being applied for and that the signer can then comment as appropriate. Many applicants have encountered that the neighbors are often confused, and some have refused to sign because they see the word "Agreement" in the title of the form and they are unwilling to agree (usually because they have general concerns about short-term rentals as a concept). Staff would recommend that the language in the Code be changed and then the name of the form be changed to something more like "Neighborhood Acknowledgement Form".
- The need to obtain a hosted permit prior to obtaining a non-hosted permit is another element that may not be showing the results as intended. The intent was to create a form of residency requirement, because the possessor of a hosted short-term rental permit must be in residence when the short-term rental is in use; however, the hosted rental need not ever be used. An out of County home-owner can first obtain a hosted

short-term rental permit, and bind themselves to being in the residence when the property is used as a hosted short-term rental. They then obtain the non-hosted short-term rental permit, operate under this permit, and never utilize the hosted permit. There are currently 3 approved non-hosted permits to second home owners who do not reside permanently in the County. All 3 of these were respondents to the survey and 2 of the 3 indicated that they were glad for the short-term rentals as they provide them with enough income to continue to own a second home in Inyo County.

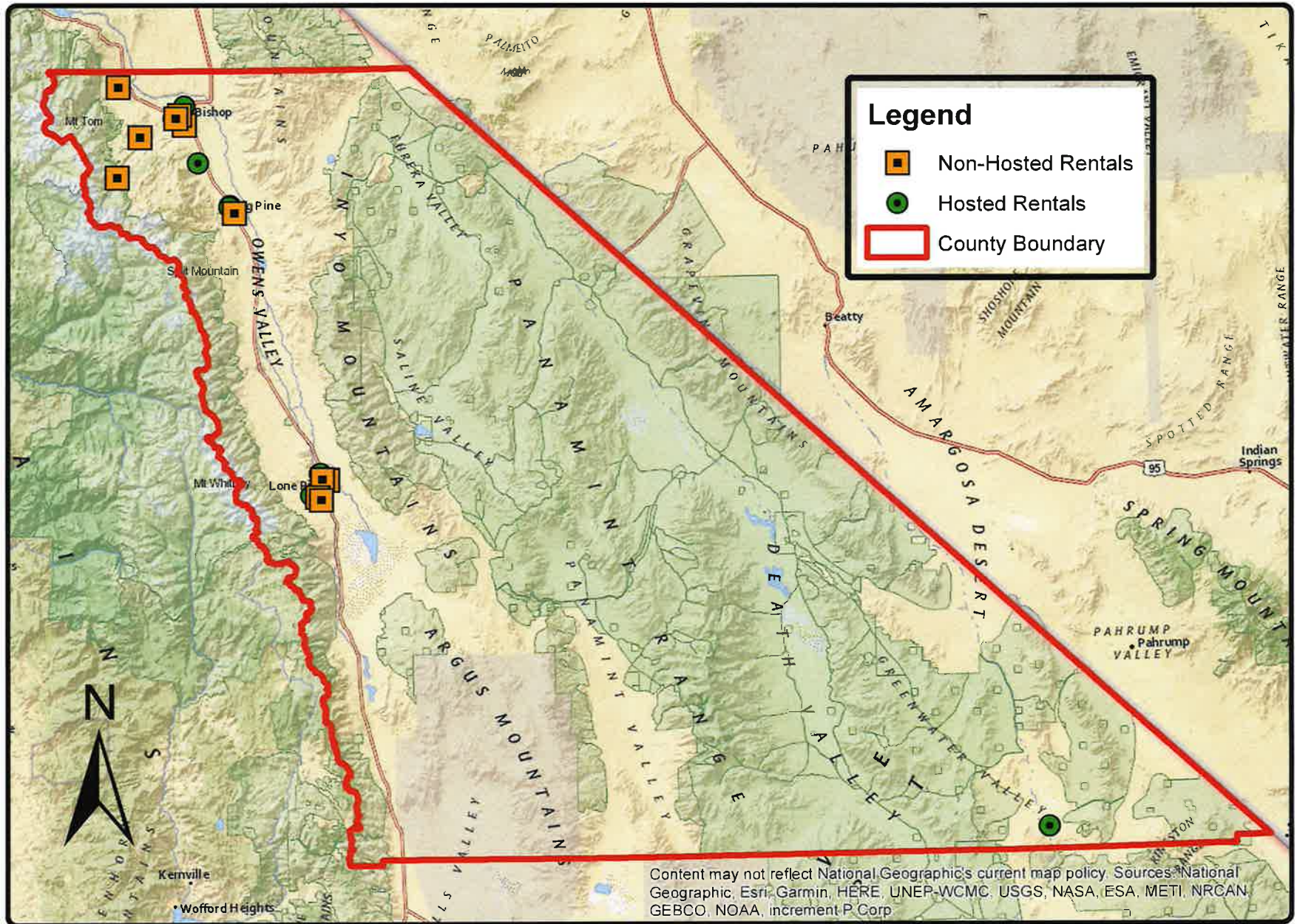
Attachments

- Attachment A – List of Permitted Short Term Rentals
- Attachment B – Map of Permitted Short Term Rentals in Inyo County
- Attachment C – Map of Permitted Short Term Rentals, Bishop Area
- Attachment D – Map of Permitted Short Term Rentals, Big Pine Area
- Attachment E – Map of Permitted Short Term Rentals, Lone Pine Area
- Attachment F – Map of Permitted Short Term Rentals, Alabama Hills
- Attachment G – Portions of Proposal from Home Compliance for Short Term Rental Monitoring
- Attachment H – Short Term Rental Survey (Survey of Existing Permittees)

Attachment A

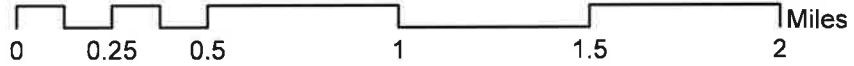
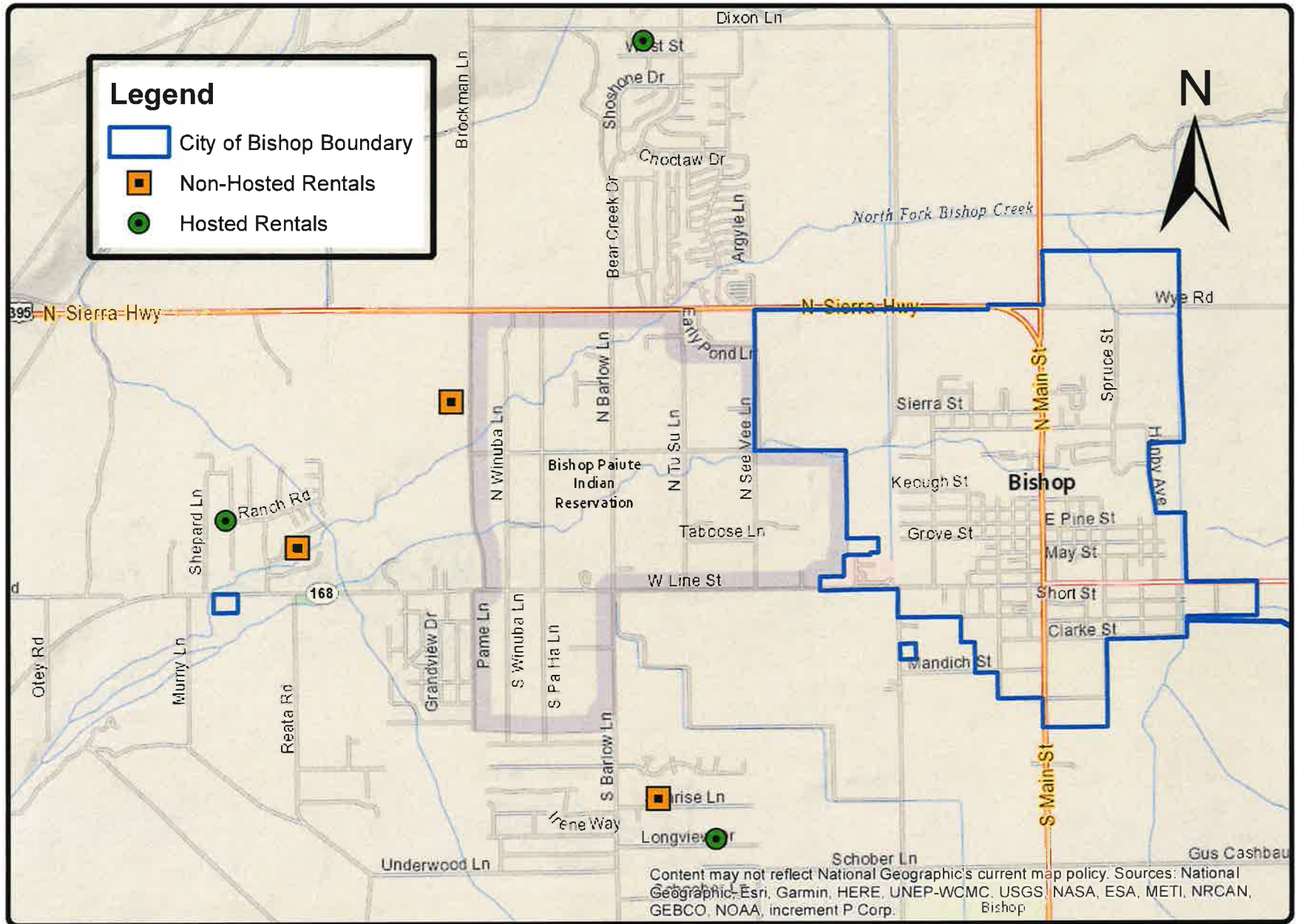
Permitted Short Term Rentals				
Operator	Type	Business Name/Description	Address	Community
William (Doug) Kari	Hosted	Gorgeous retreat amidst stunning rock formations	480 Thundercloud Lane	Alabama Hills/Lone Pine
Erin Elliott	Hosted	Cozy & Serene Eastern Sierra Getaway	29 Quail Lane	Wilkerson/Bishop
Sarah McCabe & Jaime Lopez-Wolters	Hosted	Alabama Hills Mount Whitney Retreat	260 Tuttle Creek Road	Alabama Hills/Lone Pine
Trudie Millerburg	Hosted	Trudie Millerburg's Tavern	136 Elmcrest Drive	Big Pine
David Aaron Smith	Hosted	Villa Anita	10 Sunset Road	Tecopa
Andrea Kramer	Hosted	Quiet Creekside House	107 Elmcrest Drive	Big Pine
Robert Huizar	Hosted	Ultra Basecamp! Mt. Whitney Room	225 N. Mt. Whitney Drive	Lone Pine
George Castaneda	Hosted	Sierra Getaway	191 Kellogg Street	Lone Pine
Joy Burgner	Hosted	J&J Meadows	104 Lasky Lane	Lone Pine
Jasmine Beagler	Hosted	Peaceful-Views of Sierra-Artisan Home	2506 Dixon Lane	Bishop
Jenifer Castaneda	Hosted	Million Dollar Views and Indoor Pool	551 West Whitney Portal Road	Lone Pine
Rose Curran	Hosted	Sunny Room with Privat Entry and Private Bath	2327 Longview Drive	Bishop
Gisela Huntley	Hosted	Peaceful, with Mountain Views and Ponds	305 Mt. Tom Road	Bishop
Setsuko Hayata	Hosted	Bright and Spacious 3 Br Retreat in Nature	201 Domy Road	Alabama Hills/Lone Pine
Nikolai & Debora Barbieri	Hosted	Eastern Sierra, Buttermilk Country, Bishop	313 Apollo Circle	Starlite/Bishop
Nikolas Athanasiou & Liane Herrick	Hosted	Lkiane & Niko's Eastern Sierra Getaway	301 S. Mt. Whitney Drive	Lone Pine
Charisse Rudolph	Non-Hosted	The Baby Boomers Tiny House Dream Lodge	595 Brockman Lane	Bishop
Kim Moberly	Non-Hosted	Cute West Bishop Cottage	324 McLaren Lane	Bishop
Laura Gleason	Non-Hosted	Western Lodge	2483 Sunrise Drive	Bishop
William Stewart	Non-Hosted	Raven Creek Rental	100 Hardy Road	40 Acres/Bishop
Diane & Michael Campbell	Non-Hosted	4 Acre Alabama Hills Mt Whitney Relaxing Getaway	1090 Shahr Avenue	Alabama Hills/Lone Pine
Robert Huizar	Non-Hosted	Cozy Muir Cottage - In Town - Pet Friendly	637 E. Muir St.	Lone Pine
Robert Steele	Non-Hosted	Big Pine Cottage Hideaway	171 Flower Avenue	Big Pine
Jenifer Castaneda	Non-Hosted	Mt. Whitney View Home!	560 West Bush Street, #B	Lone Pine
Paul & Pam Payne	Non-Hosted	Trinity Creek	140 Hardy Road	40 Acres/Bishop
Setsuko Hayata	Non-Hosted	Newly Remodeled Home on 5 Acres in Alabama Hills	1055 Shahr Avenue	Alabama Hills/Lone Pine
Daniel and Tracy David	Non-Hosted	Bishop climbing, skiing, hiking with a view cottage	304 Altair Circle	Starlite/Bishop
Kennon and Melanie Sheldon	Non-Hosted	Alabama Hills Chalet with stunning views	1575 Indian Springs Drive	Alabama Hills/Lone Pine
Andrew Wilson	Non-Hosted	Sierra Summit in Aspendell	200 Sierra Summit Drive	Aspendell/Bishop
Jessica Ary	Non-Hosted	Spanish Bungalow in Little Hollywood	650 School Street	Lone Pine

Map of Permitted Short Term Rentals in Inyo County

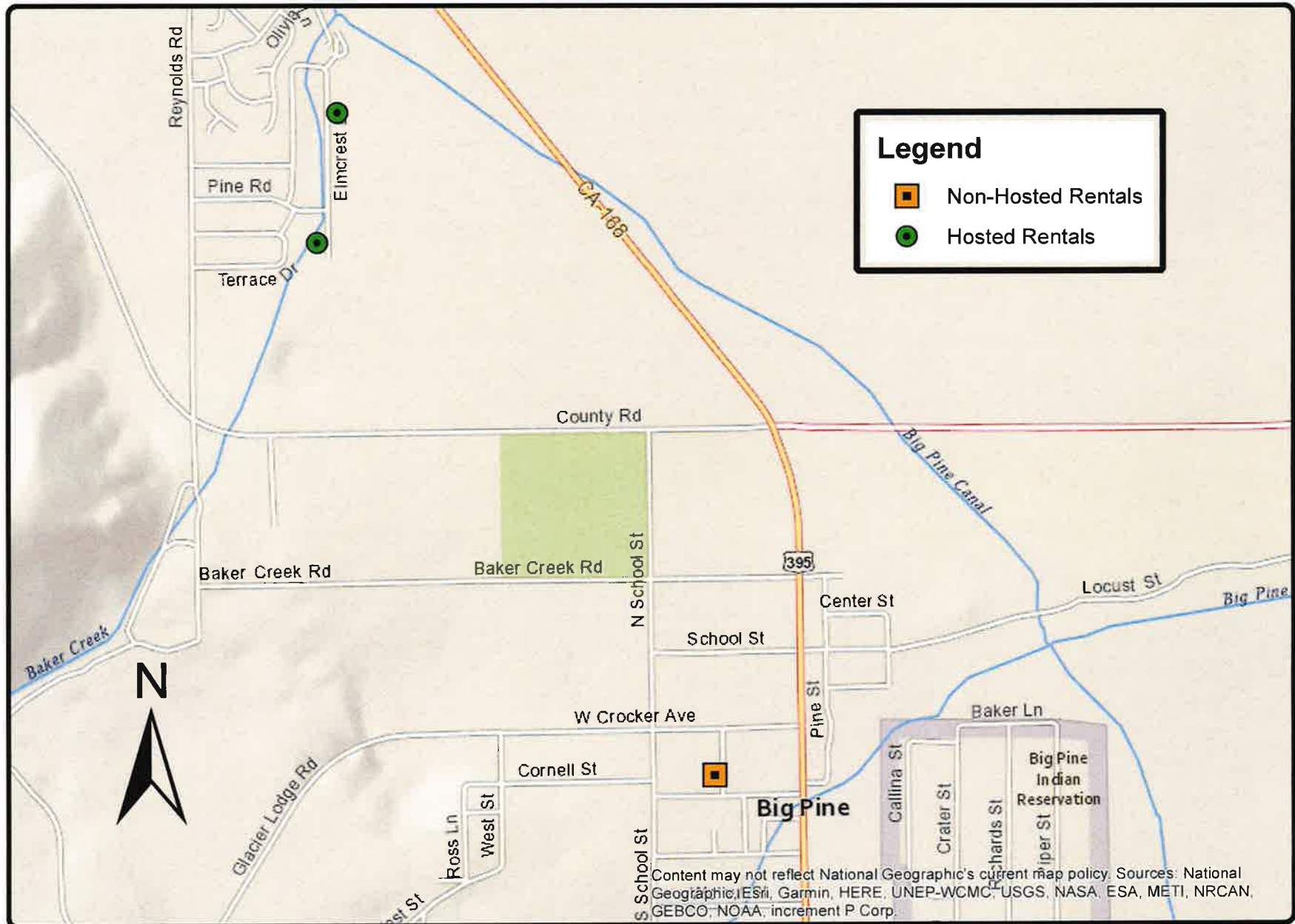


0 10 20 40 60 80 Miles

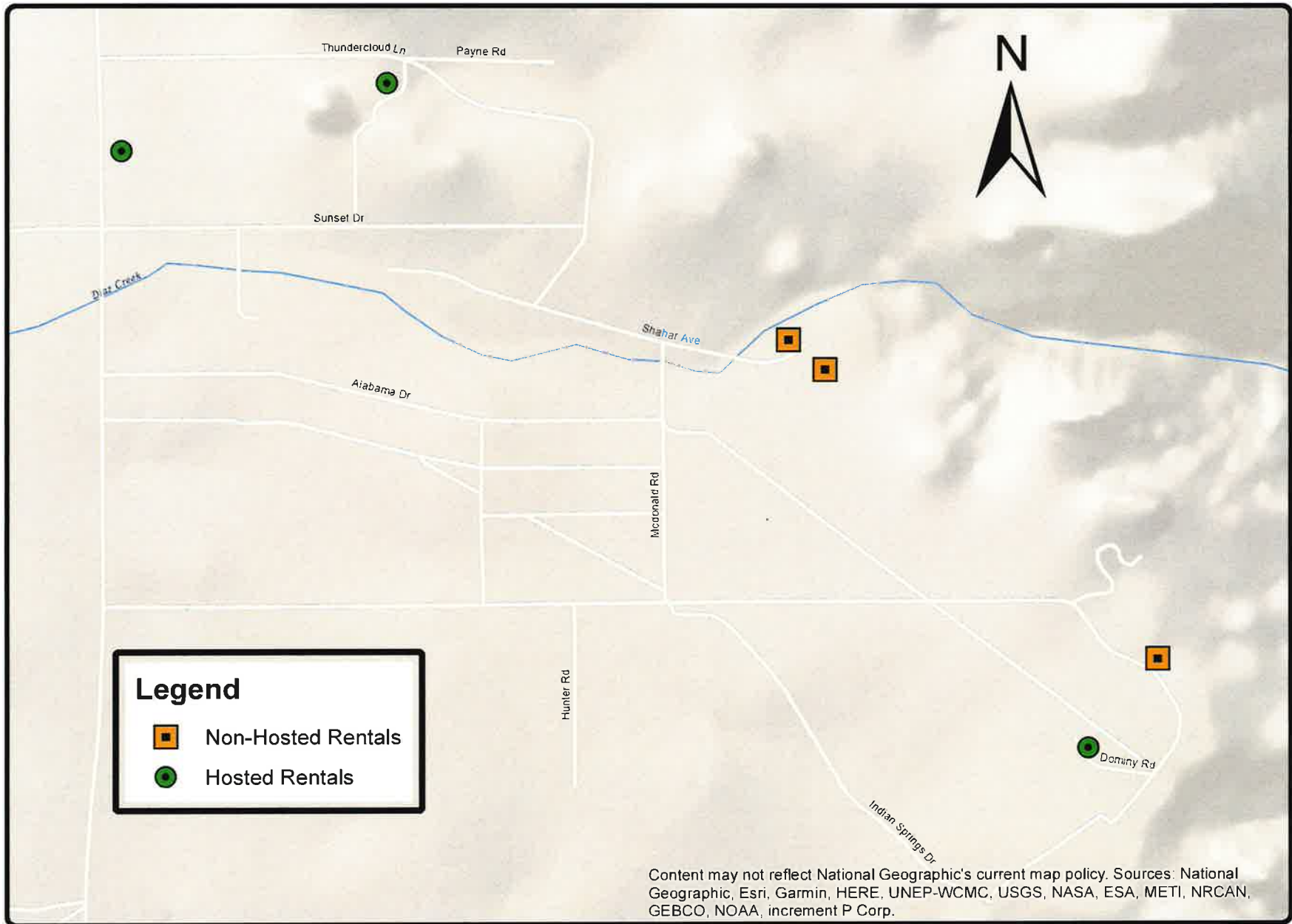
Map of Permitted Short Term Rentals, Bishop Area



Map of Permitted Short Term Rentals, Big Pine Area



Map of Permitted Short Term Rentals, Alabama Hills



Content may not reflect National Geographic's current map policy. Sources: National Geographic, Esri, Garmin, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.

0 0.15 0.3 0.6 0.9 1.2 Miles

Affordable modular pricing tailored to Inyo County's needs



Mobile Registration

\$5,000 /yr



Address Identification

\$2,640 /yr



Compliance Monitoring

\$1,320 /yr



Rental Activity Monitoring

\$1,760 /yr



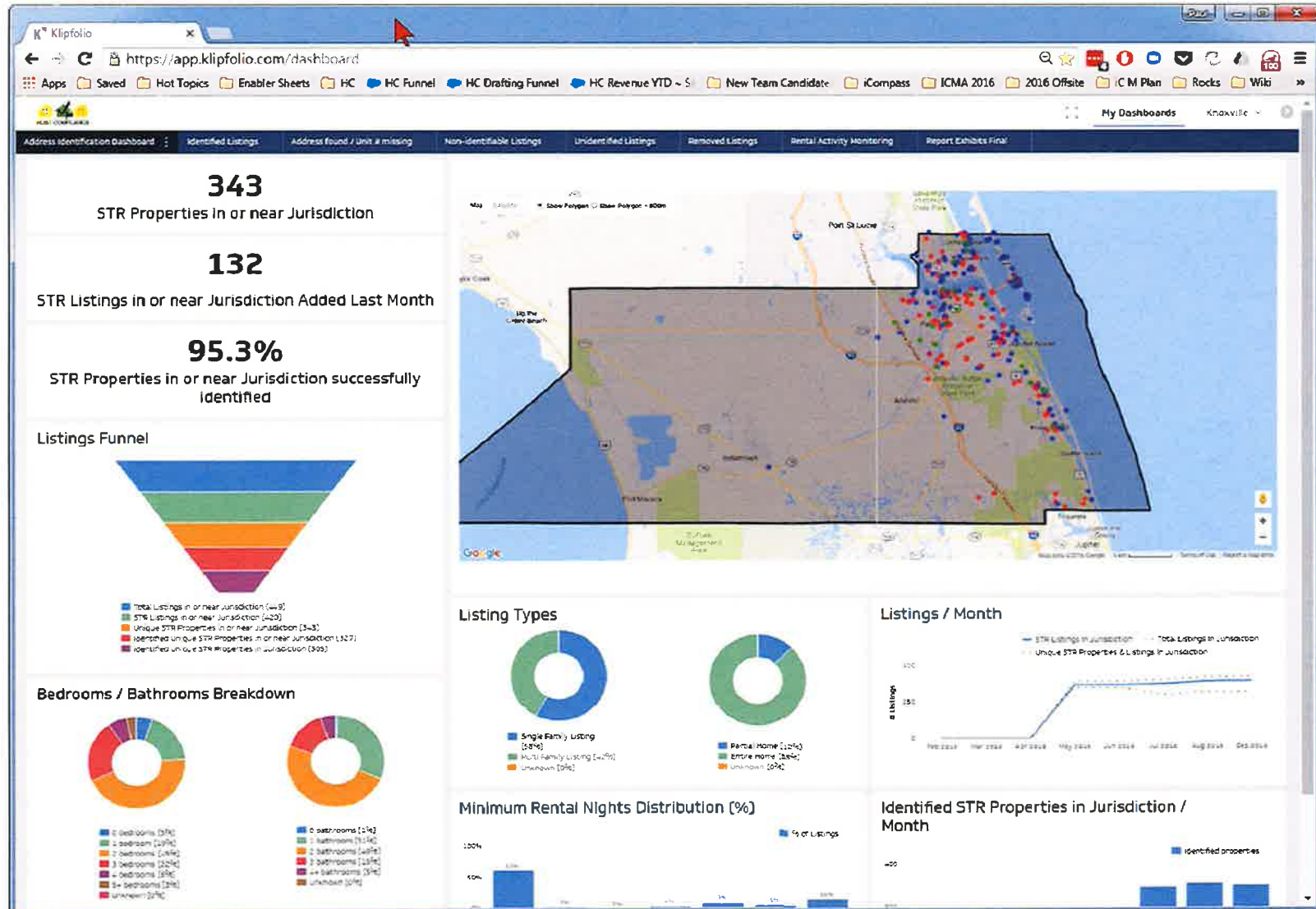
24/7 Dedicated Hotline

\$1,056 /yr

Note: Above pricing assumes 88 short-term rental listings and based in USD. Host Compliance would be happy to discuss alternative SOWs, contract terms, contract durations and pricing structures if that would be of interest.



Address Identification: Get weekly reports on Inyo County's short-term rental activity incl. complete address information and screenshots of all identifiable STRs



Address Identification: Complete listing information and screenshots of all identifiable STRs

Matched property listing



iframe.vacationrentalapi.com/property/6-Entire/3007/Mj-Pfgeod=16000050680588&key=

Host Compliance

13733 Heidi Way, Truckee, CA, United States

Active Identified

VEDD 1215795661126883

Identified Address
13733 Heidi Way, Truckee, CA, United States

Identified Unit Number
None

Identified Latitude, Longitude
39.34297, -120.206335

Parcel Number
4446001000

Owner Name
SCHASPER MAX W

Matched Details

Analyst: LYN3

Explanation
House number visible in listing photo and full name matches tax records

Owner Name Match

Matched property listing

iframe.vacationrentalapi.com/property/6-Entire/3007/Mj-Pfgeod=16000050680588&key=

Listing Details

Listing URL
https://www.vrbo.com/126883

Listing Status
Active

Host Compliance Listing ID
nma215795661126883

Listing Title
Mountain Retreat w/ Hot Spring Concessions Pet-Friendly

Listing Info Last Captured
May 04, 2017

Screenshot Last Captured
May 04, 2017

Pike
\$200/night

Owner Address
90 Fern Oaks Dr
San Francisco, CA 94110, US

Registration / Permit Number
1034

Revenue
Documented, Last 12 Months: \$2,000
Estimated, Last 12 Months: \$8.57

Timeline of Activity
View the series of events and documentation pertaining to this property.

Information Provided on Listing

Contact Name
Vivi Schaefer

Latitude, Longitude
39.34298, -120.206335

Minimum Stay (Not Nights)
2

Max Sleeping Capacity (Not People)
8

Number of Reviews
23

Last Verified Stay
Nov 2017

Listing Screenshot History
View Listing Screenshot

2 Documented Stays
March 2017

2 Documented Stays
January 2017

First Warning Resend: Sent
December 31st, 2016

First Warning: Sent
October 18th, 2016

1 Documented Stay
September 2016

Listing nma215795661126883 Identified
August 1st, 2016

Listing nma215795661126883 First Created
April 22nd, 2016

1 Documented Stay
January 2016

Listing nma215795661126883 First Activity
August 1st, 2015



Benefits to using Host Compliance's services

- ✓ Ensures fair, continuous and consistent compliance monitoring and enforcement
- ✓ Frees up valuable staff time that can be focused on higher-value added activities
- ✓ Minimizes noise, parking and trash violations
- ✓ Minimizes the impact on local law and code enforcement agencies as complaints are first handled by our 24/7 hotline and routed to the appropriate property owner before further enforcement actions are triggered
- ✓ Maximizes Inyo County's tax and permit fee collections
- ✓ REVENUE POSITIVE – in most cases, the additional permitting fees alone pays for Host Compliance's services several times
- ✓ Requires NO up-front investment or complicated IT integration
-> we can be up and running in a couple of weeks
- ✓ **6 MONTH UNCONDITIONAL MONEY BACK GUARANTEE!**

Attachment H

Short Term Rental Survey

Conducted March 22nd through March 29th, 2019

Questions Asked:

1. Did you stop operating as a long term rental in order to operate as a short term rental?
2. Have you ever operated this property as a long term rental?
3. Did you purchase or construct this property with the intent of operating as a short term rental?
4. Do you live in the residence you rent or on the same property?
5. Do you have any comments, negative or positive, about the process you had to go through to obtain your short-term rental permit.

Laura Gleason, NH-STR-2018-03 (H-STR-2018-08)

1. Yes, I rented the rental for 6 months on a month-to-month basis prior to renting it as a short-term rental. The long-term renters really tore the place up. They had a dog. It seems like the short-term renters don't get a chance to do too much damage and anything gets caught quickly.
2. Never rented as a long-term rental other than the 6-month period described in the last answer.
3. No, originally the residence was my primary residence, but I relocated to the central coast.
4. No, I operate the property as a non-hosted rental and live on the Central Coast, but my mom helps and also lives in West Bishop
5. Happy with how everything went. I had a Zoning Violation and I wasn't as happy about that process, but I had no issues with the permitting process.

Jenifer Castaneda, H-STR-2018-18 & NH-STR-2018-09

1. No for both properties
2. The Non-Hosted rented was rented in the past for a few months, to a transient work crew.
3. No, for both properties.
4. Yes for the hosted rental, and no for the non-hosted rental.
5. One thing that was bothersome was the form we took around for signatures for the hosted permit looks like they are approving it and should say that they are acknowledging it.

Deborah Barbieri, H-STR-2018-25

1. No
2. No
3. No, this is my primary residence. The kids moved out, so now they are renting the kid's room as a short-term rental. We have owned the house for 20 years
4. Yes
5. I have no problem with the process we had to go through, but it drives me crazy that we have to go through all of this process, meanwhile the people are living for free in the Buttermilks and making a mess that we, the taxpayers, are going to have to clean up. Also the 300' radius seemed a little far to go for notifying.

William Stewart, NH-STR-2018-04 (H-STR-2018-09)

1. Prior to getting a permit, I operated as both a short term and long term rental. The long term was just month-to-month for traveling hospital workers, usually at 2-3 months at a time. I would still rent to them if the opportunity presents itself.
2. n/a
3. No
4. I live on same property but in a separate residence.
5. It seems unfair to do both Host and No Host permits when I have no plans to use the hosted permit.

Diana Campbell, NH-STR-2018-05 (H-STR-2018-10)

1. Yes,. We did operate as a long term rental. But we wanted to be able to use the house again, so going to a short-term rental allowed us to get some income and use the house for ourselves.
2. Yes
3. No
4. No
5. We really liked how the process got the neighbors involved. Also seemed well thought out, with looking at parking, looking at how many can stay and all the other things to regulate appropriately.

Bob Steele, NH-STR-2018-08 (H-STR-2018-17)

1. No, not as a long term rental. My mom and grandma lived there prior to it being a short-term rental. It was a good way to keep the house and keep it in the family after they had to move.
2. Yes it has in the past (like 25 years ago).
3. No, the house out back is what we are renting, but we purchased the property from my parents as our primary residence.
4. Yes
5. \$1.600 seems a bit pricey. [the amount for a hosted plus a non-hosted application deposit]. I have no issues on taxes. Over 200 people have rented and they love it. They use restaurants and store and do a lot of business in Big Pine.

Hari Nam S. Elliott, H-STR-2018-02

1. No
2. We have rented to Seasonal BLM Workers in the past.
3. No, we bought house because they really liked it. It was a bigger house then we needed.
4. Yes
5. We did not like reaching out to neighbors initially, but it went better than we thought, and by the end we kind of liked the opportunity. You should make it clearer how an applicant deals with a neighbor who won't sign.

Trudie Millerburg, H-STR-2018-05

1. Yes, I rented to an elderly man for 2.5 years, and then rented it to someone who used it when moving to the area, for about 8 months, and before that to a couple moving out from Georgia, also for about 8 months,
2. n/a
3. No
4. Yes
5. I have stopped operating. I found that amount of work was too much for what it cost. Also, my brother died. And amount of time for the business property taxes is too much. Getting signatures for people within 300', seemed like it was capturing too large of an area. A couple neighbors each way seems more reasonable.

Charisse Rudolph, NH-STR-2018-01 (H-STR-2018-03)

1. No
2. No
3. Yes
4. Yes, I live on the property.
5. No comments on the process. It seemed good. Actually I do have one comment. I did not like that I had to pay for the hosted and non-hosted permits when solely operating as a non-hosted.

Andrea Kramer, H-STR-2018-11

1. No
2. I have rented in the past to long term renters. They were 1 year lease minimum.
3. No, originally just as a residence.
4. Yes
5. I am against Non-Hosted renters. I think it hurts long-term rentals. I am upset about the non-hosted rental across the street [which at this time is unpermitted]. Also, the curfew at 9:00 when all others are 10:00 seems strange. Posting regulations in the house she lives in seems ridiculous. I should just have to distribute the rules through airBnB. The area has a ton of parking. I would rather my guests be able to park on the street, because there is plenty of room at her end of the street.

Yvette Castaneda, H-STR-2018-13

1. No
2. No
3. No
4. Yes
5. Thought the whole process was handled really well. Some signatures were hard to get, but that just took some time. The County was fair and the process seemed good.

Robert Huizar, H-STR-2018-12 & NH-STR-2018-06

1. No for both
2. Yes for both
3. Yes, the Hosted
4. Yes for the hosted and No for the non-hosted
5. From a Layman's point of view....it seems a little too much bureaucracy. But it might make sense, so maybe a guide of why an applicant has to do what he has to do. Some people get a bit outraged because they don't understand the process. So maybe an explanatory document.

Jasmine Beagler, H-STR-2018-15

1. No
2. No
3. No
4. Yes
5. Mostly the process was good and smooth. Staff was really good. I did not like the going to all of the neighbors. That made the process lengthy and seemed a little excessive.

Kim Moberly, NH-STR-2018-02 (H-STR-2018-06)

1. Yes, I rented it out for about 3 months. Rented for a few months to some people who were looking for a home to buy, and then to someone else from Mammoth for a few months, then for Toiyabe temporary employee (a few months). I got these long-term renters from Coldwell Banker.
2. Yes
3. No
4. No
5. Grateful that we have a process. The County helped guide me through the process. I did not like having to get the signatures of the neighbors as I felt unliked by my neighbors. Also we need to make it clear that the signature is not an agreement but an acknowledgment. People felt they had a power over me because they could withhold a signature. Also I needed help from someone, and I paid people to help me by going door to door with the signature sheets.

Andrew Wilson, NH-STR-2018-17 (H-STR-2018-30)

1. No
2. No
3. No
4. No, used to be primary residence
5. I did not understand the need for the hosted permit while reading the info online. Also seems there is some confusion generally in the processing of the two permits.

Paul Payne, NH-STR-2018-10 (H-STR-2018-19)

1. No
2. No
3. No
4. Yes, we have been there about 15 years. We go to Highlands RV Park when renting, and I play a lot of golf then.
5. Was glad the law legitimized this. Glad we are doing enforcement. It appears to be working well. Glad taxes are being captured. And it seems to diversify the base. Our property doesn't rent often because it is at the high end, but we like it that way. Only use 3 bedrooms just to limit the impact (it's a 4 bedroom home). We have purposely limited the number of people. We would like to rent once a month....that hasn't even happened. We may sell house. It will depend on how short-term rentals do over the summer. We have really been thrilled with the guests we've had and getting to meet a very diverse group of people. On balance the public outreach, the form of the code, it all was very good. Lots of protections of the neighbors, while allowing people to have their businesses.

Jaime Lopez-Wolters, H-STR-2018-04

1. No
2. No
3. No
4. Yes, it is a hosted rental.
5. We applied on first day. The communication and clarity were good. The process was reasonably expeditious. Actually liked that they had to talk to their neighbors (initially we were a little hesitant). Glad we have an ordinance to allow for this.

Tracy David, NH-STR-2018-14 (H-STR-2018-26)

1. No
2. No
3. No, originally we were going to live in little house and then rent the main house as a long-term rental. However, decided to switch after we finished building the little house.
4. Yes, in main house on property.
5. Seemed like a little too much money for the permit (non-hosted), but otherwise it seems great. Really liked everyone I worked with.

Joy Burgner, H-STR-2018-14

1. No
2. No
3. Yes, I was at least considering the possibility when I was purchasing this house.
4. Yes, she is on the property part time, and another family member full time.
5. Staff was very nice and the process was reasonably easy and fair. Ryan was particularly good to work with. Wish if we could have the taxes taken out by AirBnB directly, vs. having to send them in to the Tax Collector.

Jill Hayata, H-STR-2018-23 & NH-STR-2018-12

1. No, for both
2. No, for both
3. Yes, for the non-hosted on Shahr
4. Yes for hosted, no for non-hosted
5. Felt process was easy. Staff was very nice and helpful.

Rose Curran, H-STR-2018-20

1. No
2. No
3. No, just was her house before deciding to do the short-term rental
4. Yes, it is hosted
5. It's all good. Wish there weren't taxes, but of course they make sense. Income includes TOT taxes, has concerns how it impacts personal income tax. In general the short-term rental is working for me and is allowing an income stream while I am disabled from an injury.

Each respondent was asked if they were OK with their answers being included in a public document and all agreed to that.



TLRR Licensing: Ivanpah-Control 115kV Project

Project Overview

Inyo County Board of Supervisors
April 9, 2019

Project Purpose and Need

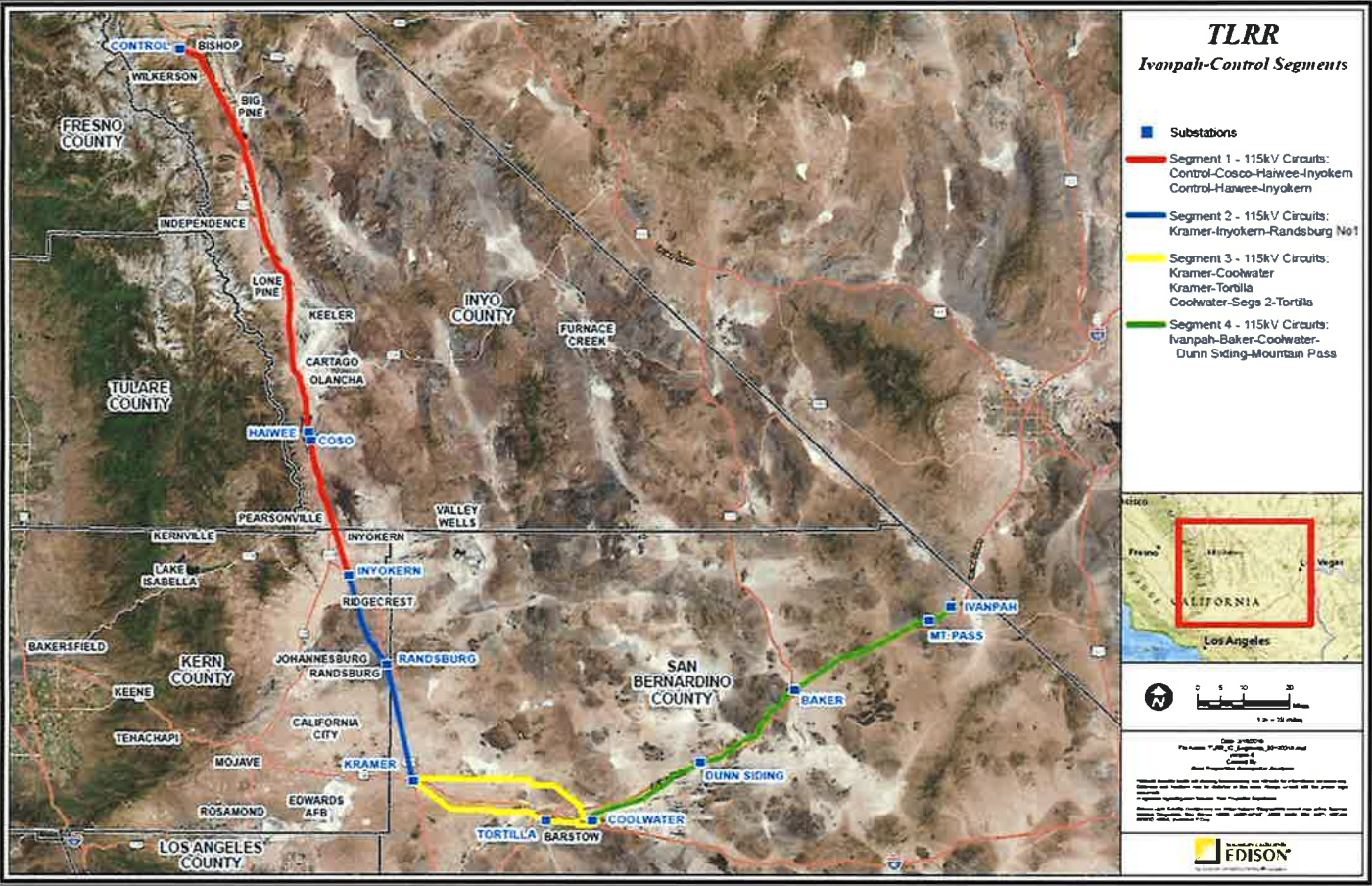
- The Ivanpah-Control Transmission Line Rating Remediation (TLRR) Project will enhance the safety of Southern California Edison's (SCE's) sub-transmission system, controlled by the California Independent System Operator (CAISO).
- The project will follow California Public Utility Commission (CPUC) safety standards and include remediation activities such as replacing existing structures with taller structures and increasing conductor (wire) ground clearances.



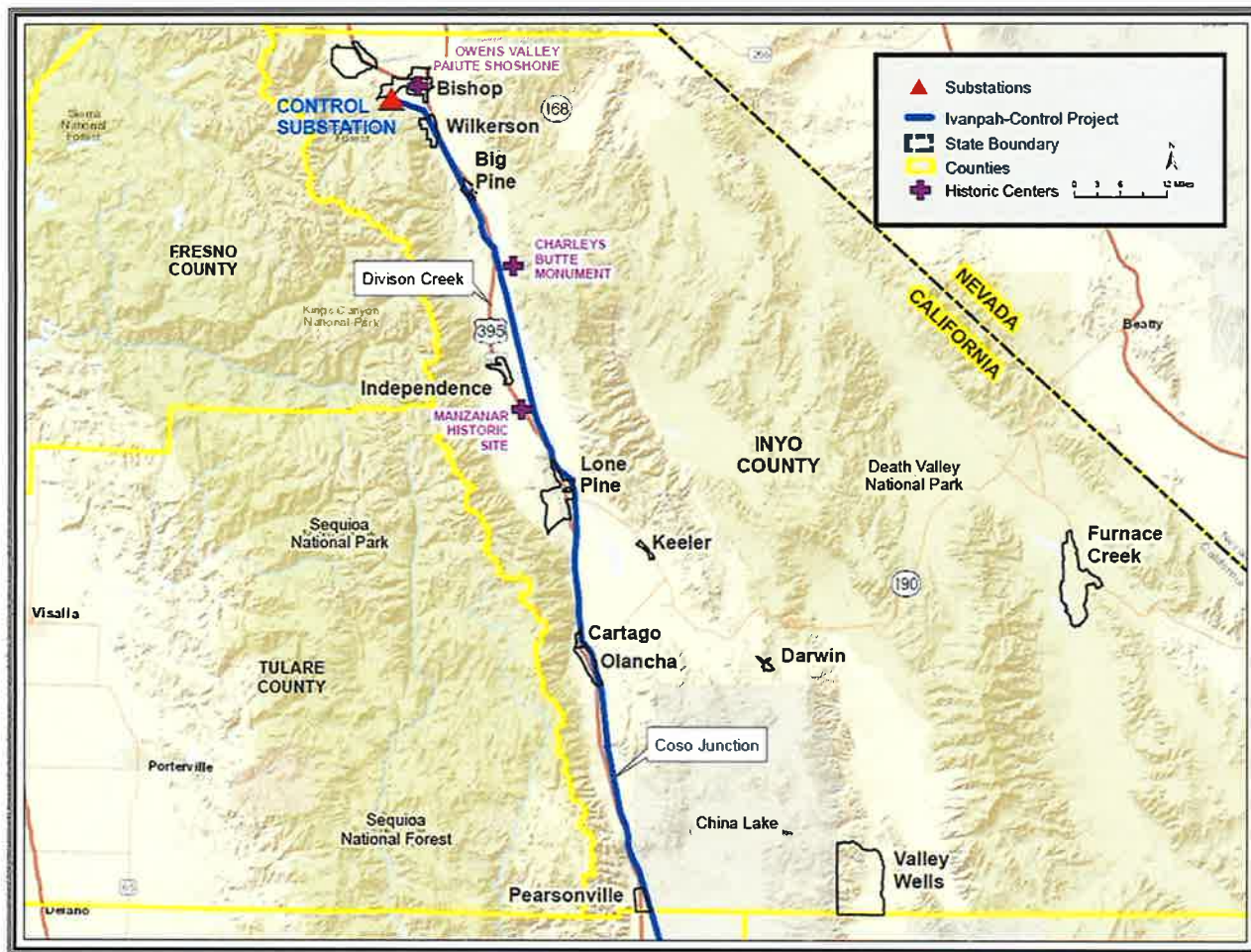
Project Location

- The entire I-C project spans three counties and more than 358 miles, 116 miles of which are in Inyo County.
- The project has north-south and east-west segments.
 - The north-south portion is located within unincorporated San Bernardino, Kern, Inyo and Mono counties, between the cities of Bishop and Ridgecrest.
 - The east-west segments are located within the city of Barstow and unincorporated Kern and San Bernardino counties.
- Most project construction will take place in existing rights-of-way to minimize environmental impacts.

I-C Project: Full View



I-C Project: Inyo County Detail



Timeline

- **May 2019***: SCE plans to file the project application with the California Public Utilities Commission (CPUC).
- **May 2019**: Notices regarding the filing will be posted at key points along the route and copies of the notice will run in area papers.
- **2Q-4Q2019**: If approved by the CPUC and BLM SCE will put the project to bid and engage the construction-phase contractor.
- **2021 – 2024**: Anticipated I-C Project construction phase.



SCE can provide more specific information about timing of the Inyo County portion of the project once the contractor is engaged and develops construction plans.

*NOTE: SCE may need to conduct some repairs in advance of licensing which could impact project scope.

Potential Project Activities



Before and After Simulation

Prior to construction, crews will be in the area performing survey work and testing. Once construction begins, crews may be performing the following work in your area:

1. Replacing existing structures with steel poles
2. Replacing conductors (wires) and associated infrastructure on portions of existing transmission lines
3. Scheduling temporary power outages during construction
4. Establishing temporary construction staging areas for crews and construction equipment, including crane and helicopter pads
5. Trimming or removing vegetation, when necessary, in and around construction
6. Maintaining or improving access roads in and around construction
7. Scheduling temporary street closures, as needed, for safety
8. Use of helicopters is anticipated for parts of this project

Questions?

- Email us regarding the I-C project: ICInfo@sce.com
- Visit the I-C Project webpage: www.sce.com/ICproject
- Arrange for a presentation with an SCE Government Relations Manager

Project County	Government Relations Manager	Email Address
Inyo County	Cal Rossi	calvin.rossi@sce.com
Kern County	Cal Rossi	calvin.rossi@sce.com
San Bernardino County	Jennifer Cusack	jennifer.cusack@sce.com Juan.m.lopez@sce.com



California Public Utilities Commission

Presentation to the Inyo County Board of Supervisors

SCE Ivanpah-Control Project

April 9, 2019



Introduction to the CPUC

- CPUC regulates a number of utility sectors:
 - Investor-owned electric utilities, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies
 - CPUC does regulate SCE, but not LADWP
- Under CPUC General Order 131-D, the CPUC must approve SCE's application for Permit to Construct before this project can move ahead.
- CPUC is the CEQA Lead Agency for the I-C Project



Coordination with BLM

I-C Project will have concurrent NEPA and CEQA review

- BLM is the NEPA Lead Agency for the I-C Project
- BLM will issue a new ROW Authorization for the I-C Project where it is on federal land
- The NEPA process will be handled separately. No joint CEQA/NEPA document will be prepared
- There will be frequent interaction/planned coordination milestones between CPUC and BLM to ensure consistency

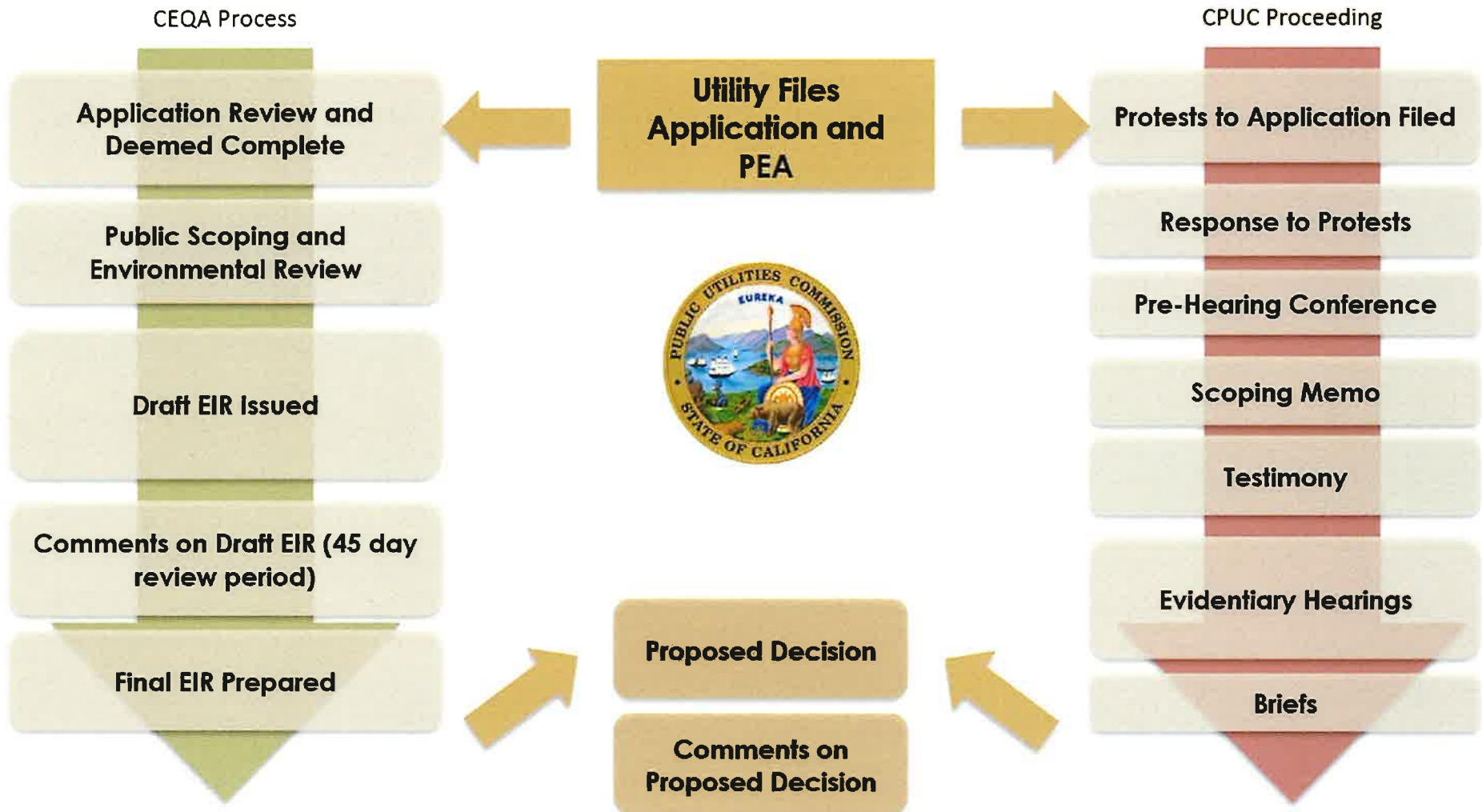


CPUC Process and Roles

- CEQA Unit Project Manager, Billie Blanchard
 - Aspen Environmental Group – Consultant Team support for CEQA preparation
- Administrative Law Judge assigned after project filing
 - Conducts Proceeding and prepares draft decision after Final EIR is issued
- Commissioner assigned at project filing
- Full 5-member Commission
 - Votes on project approval or denial
 - Proposed project or alternative selection with any approval



CEQA and the CPUC Process





CPUC's Pre-Filing Process

- CPUC has defined a “Pre-Filing Process” to streamline the permitting of transmission facilities.
- For the I-C Project, CPUC conducted pre-filing activities between October 2018 and March 2019:
 - Outreach to Counties, DOD facilities, permitting agencies
 - Team site visit and meetings with interested agencies
 - Outreach to Native American tribes
 - Review and comment to SCE on draft application materials



Tentative CEQA Schedule

CEQA / CPUC Process Step	Approximate Schedule
Pre-Filing Process: Review Draft Proponent's Environmental Assessment	October 2018 – April 2019
SCE Files Application and PEA	Late May 2019
CEQA Scoping – Public Scoping Meetings	August – September 2019
AB52 Consultation with Native American Tribes	November 2019 - ongoing
Prepare Draft EIR	October 2019 – June 2020
Release Draft EIR	June 2020
Public Workshops	July 2020
Release Final EIR	October 2020
CPUC Decision	December 2020
Project Construction (if approved)	2021 - 2024



Contact Information

- Billie Blanchard,
CPUC Project Manager for Ivanpah-Control Project
- Email: Billie.Blanchard@cpuc.ca.gov
- Telephone: (916) 823-4799



**Thank you for the opportunity to present
the CPUC's CEQA Process**

Questions?

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

469 South Main Street
Bishop, CA 93514
(760) 872-5150
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



35

March 22, 2019

File No.: 825.12965.12768

Inyo County Board of Supervisors
P O Drawer N
Independence, CA 93526

RECEIVED
2019 APR -1 AM 8:36
INYO COUNTY
ADMINISTRATOR
CLERK OF THE BOARD

Dear Board of Supervisors:

The enclosed report is submitted pursuant to Health and Safety Code Section 25180.7 (Proposition 65). The report documents information regarding the illegal discharge (or threatened illegal discharge) of hazardous waste, which could cause substantial injury to the public health or safety. The report is submitted on behalf of all designated employees of the Department of California Highway Patrol.

Sincerely,

J. DOMINGUEZ, Captain
Commander
Bishop Area

Enclosure



PRELIMINARY

HAZARDOUS MATERIALS INCIDENT REPORT

CHP 407E (Rev. 3-15) OPI 062 Refer to HPM 84.2, Chapter 2

OES CONTROL NUMBER OES-19-1932	COLLISION REPORT <input checked="" type="checkbox"/> Yes NUMBER 9825-2019-00074 <input type="checkbox"/> No
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HAZMAT CASUALTIES	NO. EXPOSED/ DECONNED	NO. INJURED	NO. KILLED	CITY UNINCORPORATED	JUDICIAL DISTRICT INYO	PHOTOGRAPHS BY <input checked="" type="checkbox"/> NONE
AGENCY PERSONNEL	0	0	0	COUNTY Inyo	NCIC 9825	HAZMAT PLACARDS DISPLAYED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
OTHERS	0	0	0			
INCIDENT DATE (MM/DD/YYYY) 03/21/2019	INCIDENT TIME 1535 HOURS	TIME CALTRANS/COUNTY ROADS NOTIFIED 1537 HOURS	TIME O.E.S. NOTIFIED 1816 HOURS	STATE HIGHWAY RELATED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

INCIDENT OCCURRED ON **SR-168**

AT INTERSECTION WITH **WYMAN CREEK ROAD**
 OR East of

MILEPOST INFORMATION

GPS COORDINATES
LATITUDE **37.415017°** LONGITUDE **-117.965286°**

NAME (FIRST, MIDDLE, LAST) RICHARD MARION BELL	DRIVER'S LICENSE NUMBER 190183223	STATE NV	VEH. YEAR 2002	MAKE KW/TRAC/YELLOW	LICENSE NUMBER 898154P	STATE NV
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STREET ADDRESS 24 4TH STREET	VEH. YEAR 2009	MAKE WESTERN/TRAILER/WHITE	LICENSE NUMBER 09866PT	STATE NV
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CITY/STATE/ZIP CODE MCGILL, NV. 89318	VEH. YEAR	MAKE	LICENSE NUMBER	STATE
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HOME PHONE	BUSINESS PHONE	CARRIER NAME PONDEROSA DAIRY
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HAZMAT IDENTIFICATION SOURCES (CHECK ALL THAT APPLY)

On-site fire services Chemtrec
 Private info source Poison Control Center
 Off-site fire services Safety Data Sheet
 On-site non-fire services Placards/Signs
 Off-site non-fire services Shipping papers
 Computer software Emergency Response Guidebook
 Chemist No reference material used
 Other

REGISTERED OWNER SAME AS DRIVER
PONDEROSA DAIRY

OWNER'S ADDRESS SAME AS DRIVER
900 EAST MECCA ROAD, AMARGOSA VALLEY, NV 89020

VEHICLE IDENTIFICATION NUMBER
1XKWDB0X02R880658

VEHICLE TYPE 25	CA NUMBER 32	DOT NUMBER 808911
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CHEMICAL/TRADE NAME DIESEL FUEL	UN NUMBER 1202	DOT HAZARD CLASS 3	QUANTITY RELEASED (LBS., GAL., ETC.) 100 GAL	EXTENT OF RELEASE Outside vehicle	PHYSICAL STATE STORED Liquid	PHYSICAL STATE RELEASED Liquid
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CONTAINER TYPE Vehicular fuel tank	CONTAINER CAPACITY (LBS., GAL., ETC.) 100	CONTAINER MATERIAL Aluminum/Aluminum alloys	LEVEL OF CONTAINER Above ground
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CHEMICAL/TRADE NAME	UN NUMBER	DOT HAZARD CLASS	QUANTITY RELEASED (LBS., GAL., ETC.)	EXTENT OF RELEASE	PHYSICAL STATE STORED	PHYSICAL STATE RELEASED
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CONTAINER TYPE	CONTAINER CAPACITY (LBS., GAL., ETC.)	CONTAINER MATERIAL	LEVEL OF CONTAINER
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PROPERTY USE	SURROUNDING AREA Open land	PROPERTY MANAGEMENT State
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RELEASE FACTORS Collision/Overturn	EQUIPMENT TYPE INVOLVED Vehicle fuel system	HAZMAT CONFIRMED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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CITATION ISSUED OR COMPLAINT TO BE FILED <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not determined <input type="checkbox"/> Violation	PRIMARY CAUSE OF INCIDENT	OTHER HAZARDOUS MATERIALS VIOLATIONS (NON-CAUSATIVE) <input type="checkbox"/> Yes <input type="checkbox"/> No
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<input type="checkbox"/> Other Code violation	DID WEATHER CONTRIBUTE TO CAUSE OR SEVERITY OF INCIDENT? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No WEATHER Clear
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ELEMENTS (OUTLINE THE FOLLOWING ON A CHP 556. INCLUDE ADDITIONAL INFORMATION AS NECESSARY)

Sequence of events Evacuation details Cleanup actions CHP On-scene Personnel (name, rank, ID number, function, exposure, hours)
 Road closures Environmental impact Actions of other agencies

COMPLETE THE FOLLOWING

Incident Action Plan Site Safety Plan Proposition 65 Letters: County Health/County Board of Supervisors

DATE AND TIME SCENE DECLARED SAFE	BY WHOM (NAME, TITLE AND AGENCY)
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PREPARER'S NAME, RANK, AND ID NUMBER L.BROWNING, SGT. 012768	DATE 03/22/2019	REVIEWER'S NAME, RANK, AND ID NUMBER	DATE
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Commissioners
Eric Sklar, President
Saint Helena

Jacque Hostler-Carmesin, Vice President
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

Samantha Murray, Member
Del Mar

STATE OF CALIFORNIA
Gavin Newsom, Governor

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

March 22, 2019

Melissa Miller-Henson
Acting Executive Director
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Sacramento, CA 94244-2090
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fgc@fgc.ca.gov
www.fgc.ca.gov

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RECEIVED
2019 APR -1 AM 8:00
INYO COUNTY
ADMINISTRATIVE
OFFICE OF THE DISTRICT CLERK

TO ALL INTERESTED AND AFFECTED PARTIES

This is to provide notice that the proposed regulatory actions relative to "Mammal Hunting Regulations" in section 362, 364, 364.1 and 708.6, identified in Title 14, California Code of Regulations, which appeared in the California Regulatory Notice Register on January 11, 2019, may be continued to the Commission's teleconference meeting on May 16, 2019.

The purpose of the continuation is to allow for additional public review of associated California Environmental Quality Act (CEQA) documents for bighorn sheep and elk (SCH #s 2018112036 and 2018112037) as filed with the State Clearinghouse on February 19, 2019. Please note that information in the original notice remain the same, including regulatory text, associated documents and noticed dates of the public hearings related to this matter.

At the Commission's April 17, 2019 meeting in Santa Monica, staff will recommend continuing public review of the CEQA documents for bighorn sheep and elk.

NOTICE IS NOW GIVEN that, if the staff recommendation to continue public review of the CEQA documents for bighorn sheep and elk is approved, any person interested may present statements, orally or in writing, relevant to the proposed regulatory actions at the Commission's teleconference hearing on Thursday, May 16, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard, in the Commission's conference room, 1416 Ninth Street, Room 1320, Sacramento, California or at one of three California Department of Fish and Wildlife (CDFW) offices: Arcata Field Office, 5341 Ericson Way, Arcata, CA 95521, CDFW Fairfield Regional Office, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534, and CDFW San Diego Regional Office, 3883 Ruffin Road, San Diego, CA 92123.

Written comments are requested before the April 17, 2019 meeting; however, to be considered during preparation of the adoption hearing materials, comments should be submitted no later than May 3, 2019, at the address given below, or by email to FGC@fgc.ca.gov. Any written comments mailed or emailed to the Commission office must be received before 12:00 noon on May 10, 2019 after which any comments must be received at the May 16, 2019 teleconference hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address in your correspondence. Mailed comments should be addressed to California Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Sincerely,

Jon D. Snellstrom
Associate Government Program Analyst