

MARIPOSA COUNTY

Agricultural Commissioner • (209)966-2075



RESOLUTION - ACTION REQUESTED 2016-140

MEETING: April 5, 2016

TO: The Board of Supervisors

FROM: Cathi Boze, Agricultural Commissioner/Sealer

RE: 2016-17 Weighmaster Enforcement (Junk Dealers and Recyclers) Agreement

RECOMMENDATION AND JUSTIFICATION:

Approve the Weighmaster Enforcement (Junk Dealers and Recyclers) Agreement Number 16-0109-SA for Fiscal Year 2016-17 with the California Department of Food and Agriculture (CDFA) for work performed in conducting initial inspections at junk dealer and recycler locations in the County, and Authorize the Board of Supervisors Chair to Sign the Agreement.

Senate Bill 485 - Weighmaster: Junk Dealers and Recyclers effective January 1, 2014, requires junk dealers and recyclers to provide additional information to the Division of Measurement Standards (DMS) when applying for or renewing a weighmaster license. Each location must be inspected to ensure that the information on the application is materially accurate. The legislation is intended to deter fraudulent transactions at junk dealers and recyclers and decrease the sale of stolen metal property. The Weighmaster Enforcement Agreement is for work performed in conducting initial inspections at junk dealer and recycler locations in the County.

The total available amount in Fiscal Year 2016/2017 for this agreement is \$240.00.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Weighmaster Enforcement (Junk Dealers and Recyclers) agreement for FY 2015/2016 was approved by Resolution No. 15-283.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve the agreement. This will prevent the subvention of any weighmaster funds to Mariposa County for work performed in this enforcement program.

FINANCIAL IMPACT:

The State subvention for this Weighmaster Cooperative Agreement with CDFA will be included in the State Revenue account for the Agricultural Commissioner/Sealer of Weights and Measures Requested Budget for Fiscal Year 2016-17.

ATTACHMENTS:

Mariposa County Agmt 2016-17 Weighmaster #16-0109-SA (PDF)

CAO RECOMMENDATION

Requested Action Recommended


Mary Hodson, CAO 3/29/2016

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Smallcombe, Jones, Long, Cann, Carrier

**COOPERATIVE AGREEMENT
SIGNATURE PAGE**

AGREEMENT NUMBER
16-0109-SA

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

STATE AGENCY'S NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

RECIPIENT'S NAME
COUNTY OF MARIPOSA

2. The term of this Agreement is: July 1, 2016 through June 30, 2017

3. The maximum amount of this Agreement is: \$240.00
Two Hundred Forty Dollars and Zero Cents

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

Exhibit A: Recipient and Project Information	1 Page
Exhibit B: General Terms and Conditions	2 Page
Exhibit C: Payment and Budget Provisions	1 Page(s)
Attachments: Scope of Work and Budget	4 Page(s)

Name of Project: Weighmaster Program

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

RECIPIENT

RECIPIENT'S NAME (Organization's Name)
COUNTY OF MARIPOSA


BY (Authorized Signature) 	DATE SIGNED (Do not type) April 6, 2016
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PRINTED NAME AND TITLE OF PERSON SIGNING
JOHN CARRIER, BOARD OF SUPERVISORS CHAIR

ADDRESS
5009 Fairgrounds Road, Mariposa, CA 95338-0905

STATE OF CALIFORNIA

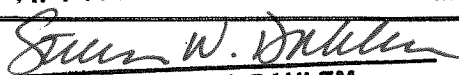
AGENCY NAME
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

BY (Authorized Signature) 	DATE SIGNED (Do not type) 4/19/16
--	--------------------------------------

PRINTED NAME AND TITLE OF PERSON SIGNING
CRYSTAL MYERS, BRANCH CHIEF, OFFICE OF GRANTS ADMINISTRATION

ADDRESS
1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

APPROVED AS TO FORM: MA


STEVEN W. DAHLEM
COUNTY COUNSEL

APR 18 2016

EXHIBIT A

RECIPIENT AND PROJECT INFORMATION

1. CDFA hereby awards an Agreement to the Recipient for the project described herein:
The CDFA will pay the County \$240 for each initial inspection of an assigned junk dealer and recycler establishment licensed as a Weighmaster to determine compliance with BPC Section 12703.1.
2. The Managers for this Agreement are:

FOR CDFA:	FOR RECIPIENT:
Name: Lance Simmons / Rebecca Bland	Name: Cathi Boze
Section/Unit: MEASUREMENT STDS. DIV / WEIGHMASTER	Section/Unit: COUNTY OF MARIPOSA
Address: 6790 Florin Perkins Road, Suite 100	Address: 5009 Fairgrounds Road
City/State/Zip: Sacramento, CA 95828	City/State/Zip: Mariposa, CA 95338-0905
Phone: 916-229-3000	Phone: 209-966-2075
Email Address: lance.simmons@cdfa.ca.gov / rebecca.bland@cdfa.ca.gov	Email Address: agcomm@mariposacounty.org

3. For a detailed description of activities to be performed and duties, see Scope of Work.

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. **Approval**

This Agreement is of no force or effect until signed by both parties. The Recipient may not invoice for activities performed prior to the commencement date or completed after the termination date of this Agreement.

2. **Assignment**

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the Agreement Manager, in the form of a formal written amendment.

3. **Mutual Liability**

Each party hereto agrees to be responsible and assume mutual and proportional liability for its own wrongful or negligent acts of omissions, or those of its officers, agents or employees to the full extent required by law.

4. **Disputes**

The Recipient must continue with the responsibilities under this Agreement during any dispute with the CDFA. In the event of a dispute, the Recipient must file a "Notice of Dispute" with the CDFA Agreement Manager within ten (10) calendar days of discovery of the problem. The Notice of Dispute must contain the Agreement number. Within ten (10) calendar days of receipt of the Notice of Dispute, the Agreement Manager must meet with the Recipient for the purpose of resolving the dispute. In the event of a dispute, the language contained within this Agreement prevails.

5. **Contractors/Consultants**

The Recipient, and the agents and employees of Recipient, in the performance of this Agreement, are not officers, employees, or agents of the CDFA. The Recipient's obligation to pay its contractors is an independent obligation from the CDFA's obligation to make payments to the Recipient. Recipient agrees to comply with all applicable State and local laws and regulations during the term of this Agreement. All contractors/consultants shall have the proper licenses/certificates required in their respective disciplines. The contract shall not affect the Recipient's overall responsibility for the management of the project, and the Recipient shall reserve sufficient rights and control to enable it to fulfill its responsibilities under this Agreement.

6. **Non-Discrimination Clause**

The Non-Discrimination Clause applies to the extent that the requirements therein are applicable to the Federal Government. During the performance of this Agreement, Recipient and its contractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, and denial family care leave.

The Recipients and contractors will ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Recipient and contractors will comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) *et seq.*) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Recipient and its contractors will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining unit or other Agreement. The Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

7. **Governing Law**

This Agreement is governed by and must be interpreted in accordance with all applicable Federal and State laws.

8. **Unenforceable Provision**

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and will not be affected thereby.

9. **Excise Tax**

The State of California is exempt from Federal excise taxes and no payment will be made for any taxes levied on employees' wages. The CDFA will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another State.

10. Right to Terminate

This Agreement may be terminated by either party hereto upon written notice delivered to the other party at least thirty (30) calendar days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred prior to the date of termination. In the event of Termination for Convenience of this Agreement by CDFA, CDFA must pay all responsible costs and non-cancellable obligations incurred by the Recipient as of the date of termination.

11. Termination for Cause

The parties may terminate this Agreement should either party fail to perform the requirements of this Agreement at the time and in the manner herein provided. However each party will have fifteen (15) calendar days after receipt of the termination notice to cure the breach. If the breach is not cured within fifteen (15) calendar days of receipt of notice, the CDFA shall reimburse the Recipient for all project specific costs incurred through the date of termination, including all uncancellable obligations applicable to sponsored agreements.

12. Reporting Requirements

The Recipient agrees to complete all reporting requirements listed in Scope of Work.

13. Publicity and Acknowledgement

The Recipient agrees that it will acknowledge CDFA's support whenever projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, publications, audiovisuals, presentations or other types of promotional material. Recipients may not use the CDFA logo.

14. Property Damage Claims Process

Should the property owner claim damages arising under, related to or involving this Agreement, the Recipient shall forward the property owner's written request for compensation to the CDFA Agreement Manager. The written request shall be fully supported by factual information. The Agency Secretary or designee will have thirty (30) calendar days after receipt of the written request to render a written decision. If a written decision is not rendered within thirty (30) calendar days after receipt of the request or the property owner disputes the CDFA's decision, the property owner may file a claim with the Victims Compensation Government Claims Board.

15. Force Majeure

The Recipient shall not be liable for any failure to perform as required by this Agreement, to the extent such failure to perform is caused by any of the following: labor disturbances or disputes of any kind, accidents, failures of any required governmental approval, civil disorders, acts of aggression, acts of God, energy or other conservation measures, failure of utilities, mechanical breakdowns, materials shortages, disease, or similar occurrences.

16. Amendments

Changes to Scope of Work, Budget, or the end date, must be requested in writing to the CDFA Agreement Manager via letter, fax or email no later than sixty (60) calendar days prior to the requested implementation date. Any changes to the Scope of Work, Budget, and end date are subject to Agreement Manager approval, and, at its discretion, the Agreement Manager may choose to accept or deny these changes. A formal amendment to the Agreement is required for these changes. No amendments are possible if the Agreement is expired.

17. Suspension of Payments

Payment under this Agreement may be suspended or terminated, or both, and Recipient may be subject to debarment if the CDFA determines that Recipient has breached the terms of this Agreement. Upon discovery of any violations of the Agreement terms and conditions, Recipient will be advised in writing of the terms breached and the reasons for imposing suspension of payments. A determination of breach may be appealed in writing and addressed to the CDFA, Legal Hearing and Appeals Office at:

California Department of Food and Agriculture
Attn: Legal, Hearing and Appeals Office
1220 N Street, Suite 400
Sacramento, CA 95814

EXHIBIT C

PAYMENT AND BUDGET PROVISIONS

1. **Invoicing and Payment**
 - A. For activities performed according to the attached Scope of Work, Budget and the terms of this Agreement, and upon receipt of the invoices, the CDFA agrees to compensate the Recipient for actual allowable expenditures incurred in accordance with this Agreement and stated herein, which is attached hereto and made a part of this Agreement.
 - B. Invoices must include the Agreement Number, performance period, type of activities performed in accordance with this Agreement, and when applicable, a breakdown of the costs of parts and materials, labor charges, and any other relevant information required to ensure proper invoices are submitted for payment.
 - C. Unless stated in the Scope of Work, monthly invoices must be submitted to the CDFA Agreement Manager, within thirty (30) calendar days after the end of each month in which activities under this Agreement were performed.
 - D. A final invoice will be submitted for payment no more than thirty (30) calendar days following the expiration date of this Agreement, or after project is complete, whichever comes first. The final invoice must be clearly marked "Final Invoice" thus indicating that all payment obligations of the CDFA under this Agreement have ceased and that no further payments are due or outstanding.
2. **Budget Contingency Clause**

If funding for any fiscal year is reduced or deleted for purposes of this program, the CDFA will have the option to either terminate this Agreement with no liability occurring to the CDFA, or offer to amend the Agreement to reflect the reduced amount.
3. **Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, California Government Code Title 1, Division 3.6, Part 3, Chapter 4.5, commencing with Section 927 - The California Prompt Payment Act.
4. **Allowable Line Item Shifts**

The Recipient must obtain written approval from the CDFA Agreement Manager for any line-item shifts.
5. **Allowable Expenses and Fiscal Documentation**
 - A. The Recipient must maintain adequate documentation for expenditures subject to this Agreement to permit the determination of the allowability of expenditures reimbursed by the CDFA under this Agreement. If CDFA cannot determine expenditures are allowable under the terms of this Agreement because records are nonexistent or inadequate according to Generally Accepted Accounting Principles, the CDFA may disallow the expenditure.
 - B. If domestic travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable for travel within California are those established by the California Department of Human resources (CalHR). The maximum rates allowable for domestic travel outside of California are those established by the United States General Services Administration (GSA).
 - C. If international travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. The maximum rates allowable are those established in a per diem supplement to Section 925, Department of State Standardized Regulations.
 - D. The Recipient must maintain and have available, upon request by the CDFA, all financial records and documentation pertaining to this Agreement. These records and documentation must be kept for three (3) years after completion of the Agreement period or until final resolution of any performance/compliance review concerns or litigation claims.
6. **Budget**

For a detailed budget of all the activities to be performed under the Scope of Work, see attached Budget.

SCOPE OF WORK

In the best interest of the state, under the authority of the Secretary of the Department of Food and Agriculture (CDFA), and in accordance with the California Business and Professions Code (BPC), Division 5, Chapter 7, Section 12703.1, the Division of Measurement Standards (Division) and the County agree to the conditions and requirements within this Scope of Work.

The Division will pay the County \$240.00 for each completed initial inspection of an assigned junk dealer or recycler establishment licensed as a weighmaster to determine compliance with BPC Section 12703.1. For purposes of this Agreement, a "junk dealer" and "recycler" are as defined in BPC Sections 21601 and 21605(b). An initial inspection is the first physical inspection in the fiscal year of a business location after renewal or issuance of a weighmaster license. The total allocation to the County for these inspections shall not exceed the Agreement.

The County shall obtain all required information regarding a newly licensed junk dealer or recycler weighmaster via the county "undisclosed" link. The County shall have 75 calendar days after issuance of a license to conduct an initial inspection at each assigned junk dealer or recycler weighmaster location. Failure to perform an initial inspection within 75 calendar days shall result in nonpayment.

Per BPC Section 12703.1. (c) (1), the County shall complete an initial inspection of the information contained in the Weighmaster License Application. Findings shall be recorded on the Weighmaster Inspection Report (Form 42-009, Rev. 11/14) supplied by the Division.

The initial inspection shall verify that the following items are materially accurate:

- Weighmaster License Application information
 - Business License information
 - The weighmaster location or business has a Storm Water Permit issued by the State Water Resources Board, or has applied for a Storm Water Permit, or substantiation the permit is not required
 - Thumbprint equipment is functioning and in good working order
 - Photograph/camera equipment is functioning and in good working order
 - Verification that the weighmaster has signed up to receive theft alert notifications
 - Verification of the name or names of any deputy weighmasters
- Weighmaster License information
- All commercial weighing devices are sealed

**Weighmaster Enforcement
(Junk Dealers and Recyclers)**

The County may observe other violations while performing an initial inspection. Per BPC Section 12015, the County agrees to document and take the appropriate enforcement action upon discovery of any violation of weights and measures laws during this inspection.

Within five (5) calendar days of conducting an initial inspection, the County shall upload an electronic copy of the completed Weighmaster Inspection Report and a photograph of the site showing how and where the weighmaster conducts their business activities via the Division's county "undisclosed" link. For business locations failing an initial inspection, the County shall also upload all supporting evidence; i.e, copies of county report forms, emails, and photographs demonstrating license information submitted was not materially accurate. Electronic copies should be in pdf, jpg or png format.

Note: The Weighmaster Inspection Report must be scanned or photographed separately from any supporting documents; however, all supporting documents and photographs may be combined into one file. Uploading the Weighmaster Inspection Report and any supporting documents completes the initial inspection and entitles the County to payment.

When a location is found to be out of business, the County shall complete and upload a Weighmaster Inspection Report indicating the location is no longer in business and notify the Division in accordance with the instructions above. Out of business locations are not billable.

The original Weighmaster Inspection Report shall be maintained at the County Office of Weights and Measures for three (3) years and be made available to the Division upon request.

All requests for payment under this Agreement shall be made on the County's official letterhead. The invoice shall be submitted quarterly and include a summary sheet with the following information: the number of inspections completed; a list of locations where the inspections were conducted; the weighmaster license name; the weighmaster license number; and, the amount of money requested. The County shall upload the completed invoice including the required summary sheet in pdf format via the county "undisclosed" link. Funds will be disbursed to the County on approval of the invoice submitted quarterly.

Submit quarterly invoice to:

Division of Measurement Standards
6790 Florin Perkins Road, Suite 100
Sacramento, CA 95828

County Letterhead

Weighmaster Agreement

INVOICE

To:

California Department of Food & Agriculture
Division of Measurement Standards
6790 Florin Perkins Road, Suite 100
Sacramento, CA 95828
Attn: Lance Simmons, Agreement Manager

Agreement #

Fiscal Year:

FY 16/17

Quarter:

PCA #

54001

In accordance with the California Business and Professions Code Section 12703.1, funds have been allocated for CDFA to pay the County of _____ the sum of \$ _____ per fiscal year.

The County has complied with the conditions as required.

Approved: _____
County Representative

Date: _____

Approved: _____
Division of Measurement Standards

Date: _____

Include a summary list stating the total number of initial inspections completed, location of inspections, the weighmaster license name, the weighmaster license number, and the amount of money requested. **Please submit Invoice in pdf, jpg, or png format by uploading via the county "undisclosed" link.**

BUDGET

County: Mariposa

Weighmaster Enforcement:

PCA 54001

1 Site Inspections at \$240.00 per Inspection:

\$ 240.00

Total Agreement Amount:

\$ 240.00

