RESOLUTION - ACTION REQUESTED 2015-283

MEETING: June 16, 2015

TO: The Board of Supervisors

FROM: Cathi Boze, Agricultural Commissioner/Sealer

RE: 2015-16 Weighmaster Enforcement (Junk Dealers and Recyclers) Agreement

RECOMMENDATION AND JUSTIFICATION:
Approve the Weighmaster Enforcement (Junk Dealers and Recyclers) Agreement Number 15-0102-SA for Fiscal Year 2015-16 with the California Department of Food and Agriculture (CDFA), 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 Fiscal Year 2015/2016 contract amount for this agreement is $480.00.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Weighmaster Enforcement (Junk Dealers and Recyclers) agreement for FY 2014/2015 was approved by Resolution No. 14-298.

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 Agreement with CDFA is budgeted in the State Revenue account for the Agricultural Commissioner/Sealer of Weights and Measures Requested Budget.

ATTACHMENTS:
Agmt 2015-16 Weighmaster #15-0102-SA (PDF)
CAO RECOMMENDATION
Requested Action Recommended

Mary Hodson, CAO 6/10/2015

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Rosemarie Smallcombe, District I Supervisor
AYES: Smallcombe, Jones, Long, Cann, Carrier
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, 2015 through June 30, 2016

3. The maximum amount of this Agreement is: $480.00
Four Hundred Eighty Dollars and Zero Cents

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:  
   - Recipient and Project Information
   - Scope of Work

   Exhibit B:  
   - Payment Provisions and Budget
   - Budget

   Exhibit C: General Terms and Conditions

Name of Project: Weighmaster Program

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

RECIPIENT

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

BY (Authorized Signature)
Maureen Jones
DATE SIGNED (Do not type)
June 16, 2015

PRINTED NAME AND TITLE OF PERSON SIGNING
Merlin Jones, Board 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)

PRINTED NAME AND TITLE OF PERSON SIGNING
CRYSTAL MYERS, MANAGER, FEDERAL FUNDS MANAGEMENT OFFICE

ADDRESS
1220 N STREET, ROOM 120
SACRAMENTO, CA 95814

APPOROVED AS TO FORM
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:

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<tr>
<th>FOR CDFA:</th>
<th>FOR RECIPIENT:</th>
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<tbody>
<tr>
<td>Name:</td>
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<tr>
<td>Lance Simmons /</td>
<td>Cathi Boze</td>
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<td>Rebecca Bland</td>
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<td>Section/Unit:</td>
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<td>Measurement Stds / Weighmaster</td>
<td>COUNTY OF MARIPOSA</td>
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<tr>
<td>Address:</td>
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<tr>
<td>6790 Florin Perkins Road, Suite 100</td>
<td>5009 Fairgrounds Road</td>
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<td>City/State/Zip:</td>
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<tr>
<td>Sacramento, CA  95828</td>
<td>Mariposa, CA  95338-0905</td>
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<td>Phone:</td>
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<tr>
<td>916-229-3000</td>
<td>209-966-2075</td>
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<td><a href="mailto:agcomm@mariposacounty.org">agcomm@mariposacounty.org</a></td>
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3. For a detailed description of activities to be performed and duties, see Scope of Work.
SCOPE OF WORK

In the best interest of the State, in accordance with the California Business and Professions Code (BPC), Division 5, Chapter 7, Section 12703.1, and under the authority of the Secretary of the Department of Food and Agriculture (CDFA), the Division of Measurement Standards (Division) and the County of Mariposa (County) agree to the following:

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 Business and Professions Code 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 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 $480.00 for this 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 a physical initial inspection at each assigned junk dealer or recycler weighmaster location. Failure to perform an inspection within 75 calendar days shall result in nonpayment.

The County shall complete an initial inspection of all the information required in the application as per BPC 12703.1. (c) (1). Findings shall be recorded on the Weighmaster Inspection Report (Form 42-009, Rev. 11/13) supplied by the Division.

An initial inspection shall verify the following items are materially accurate:

- Weighmaster License Application information;
- Business License information;
- Weighmaster License information;
- Thumbprinting equipment is functioning and in good working order;
- Photograph/camera equipment is functioning and in good working order;
- Business has a stormwater permit, or has applied for a stormwater permit, or substantiation the stormwater permit is not required; and
- Commercial weighing devices are sealed.

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

Within five (5) calendar days of conducting a physical initial inspection, the County shall scan/pdf the completed Weighmaster Inspection Report and upload it to the Division via the county "undisclosed" link. For business locations failing an initial inspection, all supporting evidence (documents/photographs in pdf, jpg, or png format) shall also be uploaded via the county "undisclosed" link. **Note:** The Weighmaster Inspection Report must be scanned or photographed separately from any supporting documents; however, the supporting documents/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. The County agrees to follow these procedures. Failure to comply will result in nonpayment.

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 County official letterhead. The invoice shall 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 submit its invoice in pdf, jpg, or png format by uploading the invoice and summary sheet via the county "undisclosed" link. The County agrees to follow these invoice procedures. Failure to comply will result in nonpayment. Funds will be disbursed to the County on approval of the invoice submitted quarterly.
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: ___________________________ Date: ___________________________
County Representative

Approved: ___________________________ Date: ___________________________
Division of Measurement Standards

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.
EXHIBIT B
PAYMENT PROVISIONS AND BUDGET

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 and approval 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 Exhibit A, 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 926, Department of State Standardized Regulations. All international travel must comply with the “Fly America Act” USC Title 49 § 40118.

   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.
BUDGET

County: Mariposa

Weighmaster Enforcement: PCA 54001

2 Site Inspections at $240.00 per Inspection: $ 480.00

Total Agreement Amount: $ 480.00
EXHIBIT C
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 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 must obtain prior approval from the CDFA Agreement Manager before hiring contractors, consultants or both. Recipient must follow their organization's written procurement policy and in the absence of a written policy or when the policy does not require competition the organization must conduct a competitive procurement process. The procedures must reflect applicable State and local laws and regulations and all contractors must have the proper licenses/certificates required in their respective disciplines.

A contract under this Agreement must be a written Agreement between the Recipient and the Contractor/Consultant, and must state the activities to be performed, the time schedule, the policies and requirements that apply to the Contractor/Consultant, the amount of the contract, and the requirements and restrictions to be used in determining allowable costs. The contract must not affect the Recipient's overall responsibilities for the management of the project, and the Recipient must reserve sufficient rights and control to enable it to fulfill its responsibilities under this Agreement. If the Recipient contracts for a portion of the work required by this Agreement, nothing contained in this Agreement or otherwise shall create any contractual relation between the CDFA and any Contractor/Consultant, and no contract shall relieve the Recipient of its responsibilities and obligations hereunder. The Recipient's obligation to pay its Contractors/Consultants is an independent obligation from the CDFA's obligation to make payments to the Recipient. The CDFA shall have no obligation to pay or to enforce the payment of any monies to any Contractor/Consultant.

The Recipient agrees to be as fully responsible to the CDFA for the acts and omissions of its contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Recipient. The Recipient, and the agents and employees of the Recipient, in the performance of this Agreement, will act in an independent capacity and not as officers or employees or agents of the State.

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 thereunder (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 CDFA may terminate this Agreement should the Recipient fail to perform the requirements of this Agreement at the time and in the manner herein provided. However the Recipient 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 uncancelable obligations, subject to the requirements of 2 CFR 200.471, applicable to sponsored agreements.

12. **Reporting Requirements**  
The Recipient agrees to complete all reporting requirements listed in Exhibit A, 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 United States Department of Agriculture logo or 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 Exhibit A, Scope of Work, Exhibit B, 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.