

Salinas Valley Solid Waste Authority Code

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(Inclusive of Amendments through Ordinance 09)

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AMENDMENTS

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CHAPTER 1. GENERAL PROVISIONS

ARTICLE 1.01 THE CODE

1.01.010 SHORT TITLE

This Code shall be known and may be cited as the "Salinas Valley Solid Waste Authority Code" or the "Authority Code."

1.01.015 EXISTING LAW CONTINUED

The provisions of this Code, insofar as such provisions are substantially the same provisions of Ordinances relating to the same subject matter and existing at the time of the adoption of this Code, shall be continued as restatements and continuations of Ordinances in existence at the time of the adoption of this Code and shall not be considered as new enactments.

1.01.020 THE EFFECTS OF PENDING ACTIONS AND ACCRUED RIGHTS

The adoption of this Code as well as the provisions of this Code shall in no way affect the legality or enforceability of any action or proceeding commenced before this Code takes effect or any right which accrued before this Code takes effect. All procedures taken after adoption of this Code shall conform to the provisions of this Code so far as possible.

1.01.030 RIGHTS UNDER EXISTING LICENSES AND CERTIFICATES

No rights given by any license, permit, or certificate under any prior actions of any predecessor governmental entities are affected by the enactment of this Code; however, such rights shall be exercised according to this Code from the effective date of this Code.

1.01.040 HEADINGS OF PROVISIONS

The headings of the part, title, chapter, section, and subsection headings contained in this Code are intended to indicate the contents of such provisions and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of such provisions.

1.01.050 DEFINITIONS

(a) In the interpretation and construction of this Code, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the Authority Board or the context clearly required otherwise:

"Authority" means the Salinas Valley Solid Waste Authority, a joint powers authority and a governmental entity, separate from the member agencies, organized under the laws of the State of California pursuant to the Joint Powers Agreement.

"Authority Board" or "Board" or "Board of Directors" means the governing body of the Authority as established pursuant to the Joint Powers Agreement.

"Chief Administrative Officer" means and includes the appointed official of the Authority who occupies the position of Chief Administrative Officer of the Authority pursuant to the Joint Powers Agreement or any person designated by the Chief Administrative Officer to perform certain duties pursuant to this Code under the direction of the Chief Administrative Officer.

"Code" or "this Code" means the Authority Code.

"Computation of time." The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

"County" or "this County" means the County of Monterey.

"Day." A day is the period of time between any midnight and the midnight following.

"Daytime" means the period of time between sunrise and sunset.

"Enforcement" shall mean the making of investigations as may be required; demanding and signing criminal complaints or civil declarations; appearing as a witness in any prosecution or proceeding when so required; and generally doing all things necessary and proper to enforce and obtain compliance with the provisions of this Code.

"Entitlement" means any license, permit, authorization, or grant which is issued, granted, or given by the Authority or any of its officers, officials, agents, employees, departments, or agencies to any person.

"Goods" means and includes wares or merchandise.

"Joint Powers Agreement" or "JPA" means the Joint Powers Agreement between the City of Salinas, the City of Gonzales, the City of Greenfield, the City of King, the City of Soledad, and the County of Monterey creating the Salinas Valley Solid Waste Authority, which became effective on January 1, 1997, and any amendments to the Joint Powers Agreement.

"Member Agencies" means the governmental entities which are signatories to the Joint Powers Agreement.

"Month" means a calendar month.

"Nighttime" means the period of time between sunset and sunrise.

"Oath" means and includes an affirmation.

"Officers, officials, departments, and other agencies" individually and collectively means officers, officials, departments, boards, commissions, and employees referred to in this Code who serve as the officers, officials, departments, boards, commissions, and employees of the Authority unless the context clearly indicates otherwise.

"Official" means any officer, official, agent, or employee of the Authority whose duties are specifically delineated in this Code.

"Official time" means whenever certain hours are named in this Code, they mean Pacific Standard Time or Daylight Savings Time, as may be in current use in the jurisdiction of the Authority.

"Operate" means and includes carry on, keep, conduct, or maintain.

"Owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

"Person" means and includes any person, firm, association, organization, partnership, business trust, corporation or company, and any municipal, political or governmental corporation, district, body, or agency other than this Authority.

"Personal property" means and includes every species of property, except real property.

"Preceding" and "following" mean next before and next after, respectively.

"Property" means and includes real and personal property.

"Public project" means a project for the erection, improvement, and repair of any buildings and works owned or maintained by the Authority.

"Real property" means and includes lands, tenements, and hereditaments.

"Sale" means and includes any sale, exchange, barter or offer for sale.

"Week." A week consists of seven consecutive days.

"Writing" means and includes any form of recorded message capable of comprehension by ordinary visual means.

"Year" means a period of 365 days, except where otherwise provided. The added day of a leap year, and the day immediately preceding, if they occur in any such period, shall be reckoned together as one day.

"City of Salinas Self-Haul Generator" means a resident of the City of Salinas who delivers waste generated within the City of Salinas to Authority solid waste facilities or a business located within the City of Salinas that delivers waste generated within the boundaries of the Authority to Authority solid waste facilities. This definition of a "City of Salinas Self-Haul Generator" does not apply to businesses engaged in hauling waste generated by third parties. A "City of Salinas Self-Haul Generator" shall be charged the reduced City of Salinas tipping fee, so long as a reduced tipping fee for City of Salinas residents is established by the Authority. A resident of the City of Salinas who delivers waste generated outside of the City of Salinas or a business located in the City of Salinas that delivers waste that it generates outside of the Authority boundaries to Authority solid waste facilities shall be charged the standard Authority tipping fee." (*Ord. 97-03, 10/16/1997*)

(b) Words and phrases are to be construed according to the context and the approved usage of the language. Technical words and phrases, and such other terms as may have acquired a peculiar and specific meaning in the law, or are specifically defined herein, are to be construed in accordance with such peculiar and specific meaning or definition.

1.01.060 TERRITORIAL LIMITATION

This Code refers only to the omission or commission of acts within the territorial limits of the Authority and to that territory outside of the Authority over which the Authority has jurisdiction or control by virtue of the state constitution, any state law, the Authority Act, or by reason of ownership or control of property. Whenever any act or omission is made unlawful, it includes causing, permitting, aiding, abetting, suffering, or concealing such act or omission.

1.01.070 DISTRIBUTION AND MAINTENANCE OF THE CODE

(a) Not less than one copy of this Code shall be filed for use and examination by the public in the offices of the Chief Administrative Officer and the Clerk of the Board. Copies of the Code shall be distributed to the members of the Authority Board, the alternate members, and the member agencies. *(Ord. 06, 11/16/06)*

(b) The Clerk of the Board shall keep and maintain this Code together with all amendments as may be adopted by the Authority Board. The Clerk of the Board on a timely and recurring basis shall publish and distribute such amendments. *(Ord. 06, 11/16/06)*

1.01.080 NOTICES: SERVICE PROCEDURE

(a) Notice required to be given under this Code, unless different provisions are otherwise specifically made in this Code, may be given either by personal delivery to the person to be notified, or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the person to be notified, at such person's last known business or residence address, as such address appears in the public records of the Authority or other records pertaining to the matter to which the notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the United States mail.

(b) Proof of giving any notice required by this Code may be made by the certificate of any officer or employee of the Authority, or by affidavit or declaration of any person over the age of 18 years which shows service in conformity with this Code or other provisions of law applicable to the subject matter of the notice.

1.01.090 HOLD HARMLESS CLAUSE FOR LICENSES AND PERMITS

(a) Every entitlement shall be subject to the condition that the person receiving the entitlement agrees to save, indemnify, and keep harmless the Authority and Authority Officers against all liabilities, judgments, costs, and expenses which may in any manner or form accrue against the Authority or Authority Officers in consequence of the issuance or granting of entitlement or in consequence of the use or occupancy of any sidewalk, street, or other public place, or the occupancy of any property or facility owned or leased by the Authority. The person receiving the entitlement shall also agree to strictly comply with the conditions of the entitlement and with this Code and all Ordinances, rules, and regulations of the Authority relating to the entitlement.

(b) Whenever it is administratively proper, the Chief Administrative Officer shall print, type, or write the condition stated above into every entitlement form substantially as it appears in this Section.

1.01.100 INTERPRETATION, CONSTRUCTION, AND SEVERABILITY

(a) The provisions of this Chapter shall be the minimum requirements for the protection of the public convenience, safety, health, and general welfare.

(b) Any reference in this Code to any portion of any statute shall include all amendments and additions to such statute.

(c) Any reference in this Code to an Ordinance of the Authority or provision of this Code shall include all amendments and additions to such Ordinance or provision. Reference to any section of this Code shall include the penalty provisions specified in this Chapter, unless otherwise expressly provided.

(d) The act or omission of an act which is made unlawful under this Code shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

(e) Whenever a power is granted to, or duty is imposed upon, an Official, the power may be exercised or the duty may be performed by a deputy or designee of such Official, or other employee or person authorized pursuant to law or Ordinance, unless this Code expressly provides otherwise.

(f) The provisions of this Code and all proceedings under this Code are to be construed so as to give effect to the objectives of the Authority Act, this Code, and the promotion of justice.

(g) The sections, paragraphs, sentences, clauses, and phrases of this Code are severable and any declaration of unconstitutionality of any phrase, clause, sentence, paragraph, or section of this Code or any amendment to this Code by the valid judgment or decree of a court of competent jurisdiction shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code or any amendment to this Code.

1.01.110 GRAMMATICAL INTERPRETATION

(a) General rules:

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural, and the plural includes the singular.
- (3) Words used in the present tense include the past and the future tenses and vice versa.
- (4) The word "or" may be read "and" and the word "and" may be read "or" if the sense requires it.
- (5) Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language. The provisions of Section 13 and 1645 of the Civil Code of the State of California are adopted in the interpretation of words and phrases, unless otherwise provided in this Code.

(b) Specific Rules.

- (1) It is the policy of the Authority Board that the legal documents of this Authority, including all Ordinances, Resolutions, and contracts, should be gender neutral.
- (2) It is the policy of the Authority Board that the legal documents of this Authority including all Ordinances, Resolutions, and contracts, should be written in "plain English."

ARTICLE 1.02 ENFORCEMENT OF CODE

1.02.010 RESPONSIBILITIES FOR ENFORCEMENT

(a) Whenever the enforcement of any provision of this Code is imposed upon or delegated to a specific official, such official shall be primarily responsible for the enforcement of such provision. In the absence of any specific imposition or delegation or enforcement responsibility, the Chief Administrative Officer shall be primarily responsible for enforcing the provisions of this Code.

(b) The Sheriff and all peace officers employed by the Sheriff's Department are empowered to enforce the provisions of this Code or any other Ordinance of the Authority. The

Sheriff and all peace officers employed by the Sheriff's Department have the power to arrest persons for violations of the provisions of this Code in accordance with the laws of the State of California. The Authority Board may designate by Ordinance additional peace officers to enforce the provisions of the Code or any Ordinance of the Authority. Such designation may include, but need not be limited to, peace officers of the member agencies and may be for any permanent or temporary, interim basis as the Authority, in its sole discretion, determines is in the best interest of the Authority.

(c) Compliance with the permit requirements of this Code shall be the responsibility of the Official authorized to grant the permit to which such requirements apply except that when the permit is granted by the Authority Board, the Chief Administrative Officer shall be the responsible officer.

(d) Whenever an Official primarily responsible for enforcing any provision of this Code fails, neglects, or refuses to perform such duty and such failure, neglect, or refusal is brought to the attention of the Chief Administrative Officer, the Chief Administrative Officer shall enforce such provision of law and initiate such penal and disciplinary action against the Official as may be warranted under the circumstances.

(e) Every Official may use administrative processes such as notices of violation, stop work orders, or warning letters in lieu of or prior to seeking judicial enforcement of any provision of this Code if the Official determines that the process may result in compliance with this Code at less cost to the Authority.

(f) Every Official is authorized to appear as a complaining witness in any criminal, civil, or administrative proceeding brought for an alleged violation of the Code or to abate any violation of this Code or enjoin any present or future violation of this Code.

(g) Every Official shall consult with Authority Counsel in a timely manner prior to commencement of any proceeding or action to terminate, revoke, or deny any entitlement allowed or established pursuant to this Code, to ensure that such proceeding or action is undertaken in a lawful manner consistent with the laws of the United States, the State of California, and the Authority.

1.02.020 INTERFERENCE WITH ENFORCING OFFICERS

(a) It is unlawful for any person to interfere or obstruct, or to attempt to interfere or obstruct, any Official in the performance of such Official's duties as specified in this Code or as may otherwise be received pursuant to the rules, regulations, or policies of the Authority or the Authority Board.

(b) No person shall give, either orally or in writing, information to an Official which the person knows or has reason to know is false.

1.02.030 VIOLATIONS OF THE CODE

(a) It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code shall be guilty of a misdemeanor unless:

- (1) The violation is classified as an infraction by the State Vehicle Code or this Code, in which case the person shall be guilty of an infraction; or
- (2) The violation is classified as a standing or parking traffic violation under the State Vehicle Code or this Code; or
- (3) The District Attorney files a complaint charging the offense as an infraction;
or

(4) A public officer designated in subsection (d) of this Section issues a citation charging the offense as an infraction.

(b) Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise made in this Code, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the Monterey County Jail for a period of not more than six months or by both such fine and imprisonment.

(c) Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise made in this Code, shall be punishable upon a first conviction of a fine of not more than Two Hundred and Fifty Dollars (\$250.00), and for a second conviction within a period of one year by a fine of not more than Five Hundred Dollars (\$500.00), and for a third or any subsequent conviction within a period of one year by a fine of not more than One Thousand Dollars (\$1,000.00).

(d) The Chief Administrative Officer shall have the authority to cite violations for infractions or civil violations in the enforcement of the provisions of this Code within the Chief Administrative Officer's regulatory responsibilities.

1.02.040 CIVIL PENALTIES

Any person who is found to have violated any provision of this Code, specifically subject to civil remedies, shall pay the civil fees listed in the Authority Fee Resolution for the violation including the penalty and all collection costs. All such violations shall be processed by the Chief Administrative Officer.

1.02.050 OFFENSES

Every person convicted of a misdemeanor or infraction under the provisions of this Code shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punished accordingly.

1.02.060 SAME OFFENSE PUNISHABLE BY DIFFERENT SECTIONS OF CODE

In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the District Attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense. The provisions of this Section apply only to criminal sanctions pursuant to Section 1.02.030 of this Code. Nothing in this Section shall be construed as limiting or prohibiting the Chief Administrative Officer or the Authority from securing compliance with the provisions of the Code through the civil remedies provisions authorized pursuant to of Section 1.02.040 or Sections 1.02.070, 1.02.080, and 1.02.090 of this Code.

1.02.070 PUBLIC NUISANCES; CONTINUING OFFENSES

Any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated as such by an official in any manner provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

1.02.080 ABATEMENT AND ENJOINMENT OF PUBLIC NUISANCES

Any violation of any provision of this Code is unlawful and a public nuisance. The District Attorney or the Authority Counsel, or their respective designees, may commence such actions or proceedings for the abatement, removal, and enjoinder in the manner provided by law and may take such other steps and initiate such judicial proceedings as the District Attorney or Authority Counsel deems necessary or appropriate to abate and restrain such violation. The remedies provided in this Section shall be cumulative and not exclusive.

1.02.090 REIMBURSEMENT OF COSTS AND CIVIL PENAL TIES

(a) Any person, firm, or corporation, who creates or maintains a public nuisance in violation of this Code shall be liable for the cost of abatement which shall include, but not be limited to:

- (1) Cost of Investigation;
- (2) Court costs;
- (3) Attorneys' fees; and
- (4) Costs of monitoring compliance.

(b) Upon continuation of a public nuisance after notice from the Authority to cease the nuisance, any person, firm, or corporation shall be liable for the costs of abatement set forth in subsection (a) of this Section plus a civil penalty of fifty percent (50%) of those costs payable to the Authority in addition to any other costs of enforcement imposed by the court or such other amount as may be specified in the Authority Fee Resolution. Penalties imposed pursuant to the provisions of this subsection are in addition to any civil penalties that may be imposed pursuant to Section 1.02.040.

1.02.100 REMEDIES CUMULATIVE

Unless otherwise expressly provided, the remedies provided in this Article or any other provision of this Code are cumulative and not exclusive. Nothing in this Code bars any legal, equitable, administrative, or summary remedy to which any aggrieved person, the Authority, or any Official may otherwise be entitled. Paying a fine or serving a jail sentence shall not relieve any person from the responsibility for correcting any condition which violates any provision of this Code or paying any civil penalties that may be imposed pursuant to the provisions of this Article.

1.02.110 IMMUNITY OF ENFORCING OFFICIALS

Nothing in this Code is intended or shall be deemed or construed to impose liability upon the Authority or any Official for any injury to persons or damage to property alleged to result from any act or omission by the Authority or any Official beyond the liability expressly imposed by the laws of the State of California or the United States. Nothing in this Code or any other Authority enactment is intended or shall be deemed or construed to impose a mandatory duty upon the Authority or any Official for the purpose of determining entitlement to equitable relief or liability for any injury to persons or damage to property alleged to result from the failure of the Authority or any Official to discharge a mandatory duty imposed by an Authority enactment.

ARTICLE 1.03 AUTHORITY SEAL

1.03.010 ADOPTED; FORM AND CONTENTS

(a) The Authority seal shall be of such design as established by the Authority Board from time to time by Resolution.

(b) The only form of corporate seal for use by or for the Authority shall be the form of seal established by the Authority Board, as provided in this section.

(c) The Clerk of the Authority shall have the official custody of the official seal of the Authority. (*Ord. 99-04, 2/18/1999*)

1.03.020 DESIGNATION OF UNLAWFUL USES

It is unlawful for any person to make or use the seal of the Authority, or any cut, facsimile or reproduction of the seal, or to make or use any seal or any design which is an imitation of the seal, or of the design thereof, which may be mistaken for the seal of the Authority, or the design thereof, for

any purpose other than for Authority purposes, or for the purposes of any board, officer, or department of the Authority.

1.03.030 DISPLAY ON PRIVATELY OWNED VEHICLES

It is unlawful for any person to display or place either temporarily or permanently, the official seal of the Authority, or any facsimile or representation or near representation thereof, on any privately owned vehicle, unless by express written permit first had and obtained from the Authority Board so to do. If any such permit is so granted by the Authority Board, it is unlawful for any person to place or display such seal in any manner or at any time contrary to or in violation of the provisions of such permit.

ARTICLE 1.04 AUTHORITY FEE RESOLUTION

1.04.010 ESTABLISHMENT OF FEE RESOLUTION

Except as otherwise provided in this Code, all fees, penalties, refunds, reimbursements, and charges of any kind collected by the Authority may be adopted by Resolution or may be designated in the Authority Fee Resolution, as amended by the Authority Board from time to time. Whenever applicable throughout the Code, reference may be made to the Authority Fee Resolution in lieu of any reference to specific fee amounts.

ARTICLE 1.05 TIME LIMITATIONS FOR ADMINISTRATIVE MANDAMUS PROCEEDINGS

1.05.010 TERM "DECISION" DEFINED

As used in this Article, the term "decision" means an adjudicatory administrative decision made, after a hearing required by law to be given, suspending, demoting or dismissing an officer or employee, revoking or denying an application for a permit or license, or denying an application for any retirement benefit or allowance.

1.05.020 SECTION 1094.6 OF THE CODE OF CIVIL PROCEDURE ADOPTED

The provisions of the Code of Civil Procedure § 1094.6 shall be applicable to decisions of the Authority Board and of any board or commission of the Authority authorized to render a final adjudicatory administrative decision where no right of appeal to the Authority Board exists, and notice thereof shall be given in the Resolution effecting such decision that the rights of review are governed by such statute in accordance with law.

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CHAPTER 2 AUTHORITY OFFICES AND GENERAL REGULATIONS

ARTICLE 2.01 AUTHORITY BOARD

2.01.010 SELECTION OF PRESIDENT AND VICE-PRESIDENT

The Authority Board shall choose one of its members to be President and one of its members to be Vice-President. The board member nominated to the office of President shall rotate between a representative from the City of Salinas, a south county city (i.e., Gonzales, Greenfield, King City, and Soledad) and the County of Monterey. The board member nominated to the office of Vice-President shall rotate in the same manner as the office of President, but shall not be from the same member agency's legislative body as the board member elected as President. (*Ord. 005, 12/11/2003*)

2.01.011 SELECTION OF ALTERNATE VICE-PRESIDENT

In the manner prescribed by the JPA, this section adds the additional office of Alternate Vice-President to be elected in the same manner established in Section 2.01.010. Board shall select an additional officer, designated as the Alternate Vice-President. The Alternate Vice-President shall serve as the Vice-President in the absence of the Vice-President. The board member elected to the office of Alternate Vice-President shall rotate in the same manner as the office of President and Vice-President, but shall not be from the same member agency's legislative body as the member elected as President and the member selected as Vice-President. (*Ord. 005, 12/11/2003*)

2.01.020 AUTHORITY OF THE PRESIDENT AND VICE-PRESIDENT

The President shall preside at all meetings of the Authority Board and may make or second any motion and present and discuss any matter as a member of the Board. If the President is absent or unable to act, the Vice-President shall serve until the President returns or is able to act and shall have all of the powers and duties of the President. If both the President and Vice-President are absent or unable to act, the Board shall choose one of its number as the presiding officer.

2.01.030 VACANCY FILLING PROCEDURE

If there is a vacancy in the position of President or Vice-President, the Board shall fill the vacancy in the manner prescribed by the JPA.

2.01.040 TERM OF OFFICE

The term of office for the President and Vice-President shall be one year commencing upon election at the regular meeting held in January and ending upon election of a successor at the regular meeting the following January. A Board Member may serve no more than two consecutive terms. (*Ord. 99-04, 2/18/1999*)

ARTICLE 2.02 MEETINGS OF THE AUTHORITY BOARD

2.02.010 MEETINGS: TIME AND PLACE

(a) The regular meetings of the Authority Board shall be held on the date, and on the time and location established by Resolution of the Board. (*Ord. 99-04, 2/18/1999*)

(b) If any regular meeting day falls upon a holiday, the regular meeting of the Board shall be held at the same place, one week from the regular meeting date, which is not a holiday commencing at the same hour as established by Resolution of the Board, in which event all hearings, applications, petitions and other matters before the Board shall be deemed to be and are automatically continued to the same hour on the day one week from the regular meeting date, which is not a holiday. (*Ord. 99-04, 2/18/1999*)

2.02.020 MEETINGS – PROCEDURES

(a) The proceedings of the Board shall be governed by the provisions of law applicable thereto and, except as otherwise provided in this Article by Roberts Rule of Order, newly revised. The failure to follow the Rules of Order or these rules shall not invalidate any action taken. The Authority Counsel shall act a parliamentarian and on request of the President, shall give parliamentary advice.

(b) The Authority Board may adopt such rules of order for the conduct of its business as it deems appropriate, any may amend the same, by Resolutions, provided, however, that no Ordinance, Resolution or other action taken by the Authority Board shall be invalidated or the legality or effect thereof otherwise affected by the failure or omission of the Authority Board to observe or follow such rules.

(c) In order to facilitate the conduct of Authority business and to ensure that all members of the public, as well as members of the Authority and alternate members, have the opportunity to be heard on public matters pending before the Authority, the following order of presentation and discussion on public agenda items shall be followed:

- (1) Presentation by staff;
- (2) Questions from Authority Board members and alternate members present;
- (3) Comments from the public;
- (4) Action, including appropriate discussion, by Authority Board members.

(d) Each alternate member appointed by a Member Agency may attend, but may not participate in closed session meetings of the Authority Board whenever the regular member appointed by Member Agency is present at such closed session meetings. (*Ord. 97-02, 4/03/1997*)

2.02.030 NOTICE AND CALL OF MEETINGS

Meetings of the Authority Board, including special meetings of the Board shall be called and noticed in accordance with state law.

2.02.040 LEGISLATIVE ACTIONS

(a) Legislative actions of the Authority Board may be taken in the form of Resolutions or Ordinances. All Resolutions and Ordinances of the Authority shall be in writing and shall be numbered consecutively in the order of the adoption. Wherever feasible, action to the Authority may be made by “minute” Resolution where the action and the vote on the action are recorded in the minutes of the Authority Board meeting. All Ordinances and Resolutions shall be filed in the office of the Clerk of the Board and shall thereupon be saved in a manner accessible to the public. (*Ord. 06, 11/16/06*)

(b) Minutes of the Authority shall be “action” minutes that will accurately reflect actions of the Authority and the vote taken on such actions and shall not be verbatim minutes of all matters discussed and comments made at meetings of the Authority Board.

(c) Authority Counsel shall prepare a summary of each Ordinance prior to submission of such Ordinance to the Authority Board. The Clerk of the Board is authorized to publish such summary in the manner provided by law in lieu of publishing the verbatim text of such Ordinance. (*Ord. 06, 11/16/06*)

(d) Ordinances shall be introduced and adopted in the manner required under the laws of the State of California. Whenever a public hearing is scheduled and noticed in the manner required under law, and such notice includes notice of pendency of a proposed Ordinance, such Ordinance

may be introduced and adopted at the conclusion of the public hearing. In addition, minor revisions to an Ordinance that do not significantly alter the substantive purpose of the Ordinance may be made prior to adoption. Typographical errors in the Authority Code may be corrected by the Clerk of the Board any time prior to final distribution of any version of the Code. (*Ord. 06, 11/16/06*)

(e) The Authority Board may adopt such rules of order for the conduct of its business as it deems appropriate, any may amend the same, by Resolution, provided however, that no Ordinance, Resolution or other action taken by the Authority Board shall be invalidated or the legality or effect thereof otherwise affected by the failure or omission of the Authority Board to observe or follow such rules.

(f) In order to facilitate the conduct of Authority business and to ensure that all members of the public, as well as members of the Authority and alternate members, have the opportunity to be heard on public matters pending before the Authority, the following order of presentation and discussion on public agenda items shall be followed:

- (1) Presentation by staff;
- (2) Questions from Authority Board members and alternate members present;
- (3) Comments from the public;
- (4) Action, including appropriate discussion, by the Authority Board members.

2.02.050 PRESIDENT – POWERS AND DUTIES – CONTROL OF DISTURBANCES

(a) The President shall possess the powers, and perform the duties as prescribed in this Section.

- (1) Have general direction over the Board Room and assign seats for the use of Board members and members of the Authority;
- (2) Preserve order and decorum; prevent demonstrations; order removed from the Board Room any person whose conduct he or she deems objectionable; and order the Board Room cleared whenever he or she deems it necessary;
- (3) Allocate the length of time for public discussion of any matter in advance of such discussion, with the concurrence of the Board;
- (4) Allocate equal time to opposing sides, insofar as possible, taking into account the number of persons requesting to be heard on any side;
- (5) Limit the amount of time that a person may address the Board during a public discussion period in order to accommodate those persons desiring to speak, and to facilitate the business of the Board;
- (6) Execute such documents on behalf of the Authority as may be required by State and Federal law;
- (7) Other powers as may be prescribed by the Board.

(b) The President shall order removed from the Board Room any person who commits the following acts in respect to a regular or special meeting of the Authority Board:

- (1) Disorderly, contemptuous, or insolent behavior toward the Board or any member thereof, tending to interrupt the due and orderly course of said meeting;
- (2) A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;
- (3) Disobedience of any lawful order of the chairperson, which shall include an order to be seated or to refrain from addressing the Board;
- (4) Any other lawful interference with the due and orderly course of said meeting.

(c) Any person so removed shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon motion adopted by a majority vote of the Board, and such exclusion shall be effected by an appropriate peace officer upon being so directed by the President.

2.02.060 NOTICE OF ABSENCE FROM MEETING

If any member of the Board is to be unable to attend a meeting, that board member shall, if possible, notify the Chief Administrative Officer prior to the meeting and advise the Chief Administrative Officer of the reasons for such absence.

2.02.070 VACATION PERIOD

The Authority Board may determine by Resolution each calendar year vacation periods during which no regular meetings will be held.

2.02.080 TRAVEL AND MEAL EXPENSES

Members of the Authority Board shall be reimbursed for necessary meal and travel expenses in an amount and in the manner established by Resolution of the Board. (*Ord.99-04, 2/18/1999*)

ARTICLE 2.03 CHIEF ADMINISTRATIVE OFFICER

2.03.010 OFFICE CREATED

The office of the Chief Administrative Officer is created and established, as provided in the Joint Powers Agreement. The Chief Administrative Officer shall be appointed by the Authority Board wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office at the pleasure of the Authority Board.

2.03.020 BOND

The Chief Administrative Officer shall furnish a corporate surety bond to be approved by the Authority Board in such sum as may be determined by the Authority Board, and shall be conditioned upon the faithful performance of the duties imposed upon the Chief Administrative Officer and as prescribed in this Article. Any premium for such bond shall be a proper charge against the Authority.

2.03.030 COMPENSATION

The Chief Administrative Officer shall receive such compensation as the Authority Board shall from time to time determine. In addition, the Chief Administrative Officer shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her official duties.

2.03.040 POWERS AND DUTIES OF THE CHIEF ADMINISTRATIVE OFFICER

(a) The Chief Administrative Officer shall be the administrative head of the Authority under the direction and control of the Authority Board, except as otherwise provided in this Code. The Chief Administrative Officer shall be responsible for the efficient administration of all the affairs of the Authority which are under the Chief Administrative Officer's control. In addition to the Chief Administrative Officer's general powers as administrative head, and not as a limitation thereon, the Chief Administrative Officer shall have the powers set forth in the JPA and in the following sections:

- (b) The Chief Administrative Officer shall have the following powers and duties:
 - (1) To plan, organize, and direct all Authority activities under the policy direction of the Authority Board;

- (2) To enforce strict compliance with the approved annual budget and approve only expenditures authorized in the approved budget;
- (3) To hire and manage such staff as necessary to carry out the provisions of the JPA and this Code;
- (4) To make recommendations to, and requests of, the Authority Board concerning all of the matters which are to be performed, done, or carried out by the Authority Board;
- (5) To have charge of, handle, or have access to any property of the Authority, and shall make all inventory of all Authority property;
- (6) To make all books and records of the Authority in the Chief Administrative Officer's hands open to inspection at all reasonable times by members of the Authority Board or their representatives;
- (7) To execute agreements, contract and documents on behalf of the Authority; and
- (8) To prepare the agenda for each meeting of the Authority Board.

2.03.045 LAW ENFORCEMENT

It shall be the duty of the Chief Administrative Officer to enforce all laws and Ordinances of the Authority and to see that all entitlements granted by the Authority Board are faithfully observed.

2.03.050 AUTHORITY OVER EMPLOYEES

It shall be the duty of the Chief Administrative Officer, and the Chief Administrative Officer shall have the authority, to control, order, and give directions to all heads of departments and to subordinate officers, employees, agents, and contractors of the Authority under the jurisdiction of the Chief Administrative Officer.

2.03.060 POWER OF APPOINTMENT AND REMOVAL

It shall be the duty of the Chief Administrative Officer to, and the Chief Administrative Officer shall, appoint, remove, promote, demote, and discipline any and all officers and employees of the Authority, except those officers and employees appointed by the Authority Board.

2.03.070 ADMINISTRATIVE REORGANIZATION OF OFFICES

It shall be the duty and responsibility of the Chief Administrative Officer to conduct studies and effect such administrative reorganization of offices, positions, or units under the Chief Administrative Officer's direction as may be indicated in the interest of efficient, effective, and economical conduct of the Authority's business.

2.03.080 ORDINANCES

It shall be the duty of the Chief Administrative Officer to recommend to the Authority Board adoption of such measures and Ordinances as the Chief Administrative Officer deems necessary.

2.03.090 ATTENDANCE AT BOARD MEETINGS

It shall be the duty of the Chief Administrative Officer to attend all meetings of the Authority Board unless the Chief Administrative Officer is excused by the President individually or the Authority Board, except when the Chief Administrative Officer's removal is under consideration.

2.03.100 FINANCIAL REPORTS

It shall be the duty of the Chief Administrative Officer to keep the Authority Board fully advised at all times as to the financial condition and needs of the Authority.

2.03.110 BUDGET

It shall be the duty of the Chief Administrative Officer to prepare and submit the proposed annual budget and the proposed annual salary plan to the Authority Board.

2.03.120 EXPENDITURE CONTROL AND PURCHASING

It shall be the duty of the Chief Administrative Officer to see that no expenditures shall be submitted or recommended to the Board except on approval of the Chief Administrative Officer. The Chief Administrative Officer shall be responsible for the purchase of all supplies for the Authority.

2.03.130 INVESTIGATIONS AND COMPLAINTS

It shall be the duty of the Chief Administrative Officer to make investigations into the affairs of the Authority and any contract or the proper performance of any obligation to the Authority.

2.03.140 FACILITIES

It shall be the duty of the Chief Administrative Officer to exercise general supervision over all public facilities, and all other public property which are under the control and jurisdiction of the Authority Board.

2.03.150 CLERK OF THE BOARD

The Chief Administrative Officer shall perform all duties associated with the legal function of the Clerk to the Board position as provided in the JPA. The Chief Administrative Officer may designate a clerk. However, the Chief Administrative Officer shall retain all responsibility for the duties of the clerk position.

2.03.160 ADDITIONAL DUTIES

It shall be the duty of the Chief Administrative Officer to perform such other duties and exercise such other powers as may be delegated to the Chief Administrative Officer from time to time by Ordinance or Resolution or other official action of the Authority Board.

2.03.170 INTERFERENCE WITH THE ADMINISTRATIVE SERVICE

The Authority Board and its members shall deal with the administrative services of the Authority only through the Chief Administrative Officer, except for the purpose of inquiry, and neither the Board, nor any member thereof, shall give orders or instructions to any subordinates of the Chief Administrative Officer. The Chief Administrative Officer shall take orders and instructions from the Authority Board only when sitting in a duly convened meeting of the Board and no individual member of the Authority shall give any orders or instructions to the Chief Administrative Officer.

2.03.180 REMOVAL

The removal of the Chief Administrative Officer may be effected with or without cause, but only by a majority vote of the whole Authority Board as then constituted, convened in a regular Board meeting. The Chief Administrative Officer shall be afforded at least 30 days written notice of the effective date of termination.

2.03.190 AGREEMENTS ON EMPLOYMENT

Nothing in this Article shall be construed as a limitation on the power or authority of the Authority Board to enter into any agreement with the Chief Administrative Officer delineating additional terms and conditions of employment not inconsistent with any provisions of this Article; nor shall this Article be construed as limiting the power or authority of the Authority Board to enter into any agreement with any legally existing entity to provide the services of the Chief Administrative Officer as provided in the JPA and this Article.

ARTICLE 2.04 PERSONNEL

2.04.010 PERSONNEL

Personnel Policies and Procedures shall be adopted by Resolution of the Board of Directors to provide for a fair and equitable system of personnel management. These policies shall be set forth in detail and those procedures shall ensure equal treatment for applicants and employees and define the obligations, rights, privileges, benefits and prohibitions placed upon all employees in the Authority's service. (*Ord. 005, 12/11/2003*)

ARTICLE 2.05 POLITICAL ACTIVITIES OF AUTHORITY EMPLOYEES (Reserved)

ARTICLE 2.06 BOARD AND COMMISSIONS

2.06.010 BOARDS AND COMMISSIONS

An Executive Committee is hereby formed consisting of the President, Vice-President and Alternate Vice-President. The Committee shall conduct meetings as needed and shall receive direction from, and report directly to, the Board of Directors on all matters considered. Bylaws or procedures may be adopted by Resolution of the Board to provide direction or guidance of the duties and responsibilities delegated to the Committee. (*Ord. 005, 12/11/2003*)

A majority of the Board may determine from time to time to appoint the Authority's immediate Past President as a fourth member of the Executive Committee, in which case the Board shall specify the term of such appointment. (*Ord. 08, 2/18/2010*)

2.06.011 OTHER BOARDS AND COMMISSIONS

The Board may appoint other advisory, ad hoc, or standing committees as deemed necessary for the effective operation of the Authority. (*Ord. 005, 12/11/2003*)

ARTICLE 2.07 ADDITIONAL OFFICERS

2.07.010 TREASURER

- (a) The Authority Board shall appoint a Treasurer to serve at its pleasure.
- (b) The Treasurer of the Authority shall be a depositor and have custody of all the money of the Authority from whatever source. The Treasurer of the Authority shall comply strictly with the provisions of state law relating to the duties of Treasurers of Joint Powers Authorities.
- (c) The Treasurer shall ensure that all available cash on hand is at all times invested in a cash management program and investment portfolio pertaining thereto and ensure that efficient liquidity is maintained to meet the Authority's cash disbursement needs.
- (d) The Treasurer shall furnish a corporate surety bond to be approved by the Authority Board in such sum as may be determined by the Authority Board and shall be conditioned upon the faithful performance of the duties imposed upon the Treasurer. Any premium for such bond shall be a proper charge against the Authority.

2.07.020 CONTROLLER

(a) The Authority Board shall appoint a Controller of the Authority to serve at its pleasure. The Controller shall advise the Authority Board in connection with any accounting, budgetary, monetary, or other financial matters relating to the Authority. The duties and responsibilities of the Controller include, but are not limited to, those duties set forth in the JPA Act and shall include the following:

- (1) Establish, with Authority Board approval of the annual budget format, accounts, and documentation pertaining to the budget and which most nearly reflects the objectives of the Authority;
- (2) Establish and maintain the particular funds and accounts as required by generally accepted accounting practices applicable to public entities and which most accurately and appropriately record and report the operations of the Authority as represented by the annual budget document;
- (3) Enforce strict compliance with the approved annual budget and approve only expenditures authorized in the approved budget;
- (4) Make all books and records of the Authority in the Controller's hands open to inspection at all reasonable times by the members of the Authority Board or their representatives.

(b) The Controller shall furnish a corporate surety bond to be approved by the Authority Board in such amount as may be determined by the Authority Board and shall be conditioned upon the faithful performance of the duties of the Controller. Any premium for such bond shall be a proper charge against the Authority.

2.07.030 AUTHORITY COUNSEL

The Authority Board shall appoint Authority Counsel to serve at the pleasure of the Authority Board. The Authority Board may appoint additional counsel to assist Authority Counselor provide special services as may be required by the Authority Board. Authority Counsel shall attend meetings of the Authority Board as required to advise the Authority Board in connection with any legal matters relating to the Authority.

2.07.040 AGREEMENTS FOR SERVICES OF OFFICIALS

Nothing in this Article shall be construed as limiting the power or authority of the Authority Board to enter into any agreement with any legally existing entity to provide the services of any or all of the officers described in this Article as provided in the JPA and this Article.

ARTICLE 2.08 CONFLICT OF INTEREST CODE

2.08.010 PURPOSE AND EFFECT

The terms of Title 2, Division 6 of the California Code of Regulations (Section 18730, *et seq.*), and any amendments thereto that may be adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the following sections in which officials and employees are designated and disclosure categories are set forth, constitute the conflict of interest code for the Authority. This Article constitutes the "Appendix" to Title 2, Division 6 of the California Code of Regulations section 18730, *et seq.*

2.08.020 DESIGNATED POSITIONS; DISCLOSURE CATEGORIES

(a) Designated positions are established by Resolution of the Board. Each officer and employee filling a designated position, and any person filling a designated position on a temporary or acting basis for more than thirty consecutive calendar days, shall disclose all of the information set

forth in all disclosure Schedules A-1/A-2 through E on such form as the Fair Political Practices Commission may designate. (*Ord. 06, 11/16/2006; Ord. 09, 10/20/2011*)

(b) Each consultant, as defined in 2 California Code of Regulations Section 18700, shall disclose all of the information set forth in all disclosure Scheduled A-1/A-2 through E on such form as the Fair Political Practices Commission may designate. The Chief Administrative Officer 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 are not required to fully comply with the disclosure requirements of this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The determination of the Chief Administrative Officer is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (*Ord. 09, 10/20/2011*)

2.08.030 PLACE AND TIME OF FILING

(a) All persons filling designated positions shall file statements of financial interest with the Chief Administrative Officer or his/her designee who shall receive such statements on behalf of the Authority Board. Unless otherwise required by state law, all statements of financial interest shall be deemed timely filed only when received by the Chief Administrative Officer or his or her designee on or before the following deadlines: (*Ord. 99-04, 2/18/1999; Ord. 09, 10/20/2011*)

- (1) Annual statements shall be filed on or before April 1 of each calendar year. Such statements shall cover the period of the preceding calendar year or from the date of filing such statement as otherwise required by this Code.
- (2) Initial statements shall be filed within thirty days after assuming office disclosing interests held on the date of assuming office.
- (3) Leaving office statements shall be filed within thirty days of leaving office. Such statements shall cover the period between the closing date of the last statement required to be filed and the date of leaving office.

Upon filing of any statements of financial interest, the Chief Administrative Officer or his/her designee shall forward a copy of such statement to the County of Monterey Clerk of the Board of Supervisors. (*Ord. 09, 10/20/2011*)

2.08.040 CONFLICT WITH OTHER LAWS

Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000, *et seq.*). The provisions of this Code are in addition to Government Code Section 87100 and other laws pertaining to conflicts of interest, including, but not limited to, Government Code Section 1090, *et seq.*

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CHAPTER 3. FINANCE

ARTICLE 3.01 PURCHASING SYSTEM

3.01.010 ADOPTION

A purchasing system as described in this Article is adopted in order to: establish efficient procedures for the purchase of supplies and equipment at the lowest possible cost, commensurate with quality needs; exercise positive financial control over purchases; clearly define authority for the purchasing function; and, ensure the quality of purchases.

3.01.020 SCOPE

The procedures established by this Article shall apply only to the purchase of supplies, equipment, and services, and shall not apply to public projects.

3.01.030 AUTHORITY OF THE CHIEF ADMINISTRATIVE OFFICER

(a) In addition to the duties of the Chief Administrative Officer specified in Article 2.03 of this Code, the Chief Administrative Officer shall have the authority to:

- (1) Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed by this Article, such administrative regulations as the Chief Administrative Officer shall adopt for the internal management and operation of the purchasing division and such other rules and regulations as shall be prescribed by the Board or Chief Administrative Officer;
- (2) Negotiate and recommend execution of contracts for the purchase of supplies and equipment;
- (3) Act to procure for the Authority the needed quality in supplies and equipment at least expense to the Authority;
- (4) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
- (5) Prepare and recommend to the Board rules governing the purchase of supplies and equipment for the Authority;
- (6) Prepare and recommend revisions and amendments to the purchasing rules;
- (7) Keep informed of current developments in the field of purchasing, prices, market conditions, and new products;
- (8) Prescribe and maintain such forms as are reasonably necessary for the operation of this Chapter and other rules and regulations;
- (9) Supervise the inspection of all supplies and equipment purchased to ensure conformance with specifications;
- (10) Recommend the transfer of surplus or unused supplies and equipment between departments as needed;
- (11) Maintain an approved vendor list, vendor catalog file, and records;

3.01.040 PURCHASING REGULATIONS

The Chief Administrative Officer shall be responsible for determining that the regulations and procedures in this Chapter are carried out.

3.01.050 PURCHASE ORDERS

Purchase of supplies and equipment shall be made only by purchase orders. Except as otherwise provided in this Chapter, no purchase order shall be issued unless the prior approval of the Chief Administrative Officer or his/her designee has been obtained. (*Ord. 99-04, 2/18/1999*)

3.01.060 ENCUMBRANCE OF FUNDS

Except in cases of emergency, the Chief Administrative Officer, or his/her designee shall not issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged. (*Ord. 99-04, 2/18/1999*)

3.01.070 INSPECTION AND TESTING

The Chief Administrative Officer or his/her designee shall, in the discretion of the Chief Administrative Officer, inspect supplies and equipment delivered to the Authority to determine conformance with the specifications set forth in the purchase order. The Chief Administrative Officer or his/her designee shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries, which are necessary to determine their quality and conformance with specifications. (*Ord. 99-04, 2/18/1999*)

3.01.080 FORMAL BID REQUIREMENTS

(a) Except as otherwise provided in this Article, purchases of supplies and equipment of an estimated value greater than \$50,000 shall be awarded to the lowest responsible bidder pursuant to the formal bid procedure prescribed in this section.

(b) Notices inviting formal bids shall include a general description of the article or service desired, shall state where bid documents and specifications may be secured, and the time and place for opening bids.

(c) Notices inviting formal bids shall be published at least ten days prior to the date of opening of the bids. Notices shall be published at least once in a newspaper regularly circulated in the Authority.

(d) The Chief Administrative Officer or his/her designee shall also solicit formal sealed bids from responsible suppliers whose names are on the approved vendor list, or who have made written request that their names be added thereto. (*Ord. 99-04, 2/18/1999*)

(e) Where deemed necessary by the Chief Administrative Officer, formal bids shall be accompanied by security, either cash, cashier's check, certified check, or surety bond, in a sum equal to ten percent of the total aggregate of the bid, and shall be designated in the notice inviting bids. Bidders shall be entitled to the return of bid security; provided, however, that a successful bidder shall forfeit the bid security upon his refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the Authority is solely responsible for the delay in executing the contract. The Board or Chief Administrative Officer may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder who is willing to execute the contract, or may reject all bids and re-advertise.

(f) The Chief Administrative Officer shall have authority to require a faithful performance bond or other bonds before entering into a contract other than a public project contract. If bonds are required, the form and amount thereof shall be designated in the notice inviting bids.

(g) Sealed bids shall be submitted to the Chief Administrative Officer and shall be identified as bids on the envelope. The purchasing officer, or designee, shall publicly open all bids at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection in the purchasing office during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

(h) In its discretion, the Authority Board or Chief Administrative Officer may reject any and all bids presented and may cause re-advertising for bids pursuant to the procedure prescribed in this Article. However, when all bids exceed the authorized budgeted amount, the Chief Administrative Officer may authorize rejection of all bids and authorize rebidding based upon the original specifications or as they may be modified, in accordance with procedures prescribed in this Article.

(i) Except as otherwise provided in this Article, formal bid contracts shall be awarded by the Authority Board to the lowest responsible bidder. The determination of lowest responsible bidder shall be at the discretion of the Authority Board pursuant to findings and recommendations presented by the Chief Administrative Officer at the time of award of contract.

(j) Subject to the provisions of section 3.01.090, if two or more formal bids received are for the same total amount or unit price, quality and service being equal and if the public interest will not permit the delay of re-advertising for bids, the Authority Board may in its discretion accept the one it chooses or accept the lowest bid made by, and after negotiation with the tie bidders, at the time of the bid opening or award of contract.

3.01.090 PREFERENCE FOR LOCAL SUPPLIERS

(a) Each local supplier providing goods or supplies funded in whole or in part by Authority funds, or funds which the Authority expends or administers, shall be eligible for a local preference as provided in this Section.

(b) Each local supplier who is within five percent (5%) of the lowest responsible bid shall be provided the opportunity to reduce the local supplier's bid to the amount equal to the amount of the lowest responsible bid. The opportunity to reduce bid amounts shall be provided first to the lowest eligible local bidder and, if not accepted by such bidder within five business days of the opening of bids, then to each successive eligible bidder in ascending order of the amount of bids. In the event an eligible local supplier reduces the bid to the amount of the lowest responsible bid, the eligible local supplier shall be deemed to have provided the lowest responsible bid and shall be awarded the contract.

(c) For the purpose of this Section, the term "local supplier" shall mean a business or resident doing business as a supplier in the jurisdiction of the Authority for the past five (5) years.

3.01.100 RECYCLED MATERIALS; COPYING

The Authority encourages the use of recycled paper and materials in response to all bids for services and supplies to the Authority. Wherever possible, preference will be given to those vendors, suppliers, and consultants providing supplies and services to the Authority who utilize recycled materials, including recycled paper products. In addition, documents submitted for Authority use shall be presented with front to back copying in order to minimize the amount of file space necessary for the maintenance of such documents, as well as to reduce the amount of paper required in the provision of governmental services.

3.01.110 NO FORMAL BIDS

When no formal bids or no responsive bids are received, the Chief Administrative Officer is authorized to negotiate for written proposals, and the award, if any, shall be made in accordance with applicable provisions prescribed in this Article.

3.01.120 OPEN MARKET OR INFORMAL BID PROCEDURE

(a) Purchases of supplies and equipment of an estimated value in the amount of \$50,000.00 or less may be made by the Chief Administrative Officer or his/her designee in the open

market without observing the procedures prescribed in Sections 3.01.090. Open market purchases shall, wherever possible, be based on at least three (3) informal bids and shall be awarded to the bidder offering the most advantageous bid to the Authority, in the opinion of the Chief Administrative Officer or his or her designee, after consideration of price, quality, durability, servicing, delivery time, standardization, location of vendor, and other factors. (*Ord. 99-04, 2/18/1999*)

(b) The Chief Administrative Officer shall solicit informal bids by written requests to prospective vendors, or by telephone, or by public notice posted on a public bulletin board at the Authority offices. The Chief Administrative Officer shall keep a written record of all open market purchases and informal bids for a period of two years. This record, while so kept, shall be open to public inspection.

3.01.130 EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENT

(a) Notwithstanding any provision of this Article to the contrary, the competitive bidding and informal bidding procedures and requirements as described in the Article may be dispensed within any of the following instances:

- (1) When the estimated amount involved is less than \$5,000.00.
- (2) When the commodity can be obtained from only one vendor.
- (3) When the Board finds that the commodity is unique and not subject to competitive bidding.
- (4) The Board may authorize the purchase of materials, supplies, equipment, and services where an emergency is deemed to exist and it is determined that service involving the public health, safety, or welfare would be interrupted if the normal procedure were followed.
- (5) Any agreement involving acquisition of supplies, equipment, or service entered into with another governmental entity.

(b) Contracts for personal services, professional services, and consultant services may be executed without observing the bidding procedures provided in this Article. The Chief Administrative Officer is authorized to enter into such contracts where the amount of the contract does not exceed \$50,000.00, provided there existed an unencumbered appropriation in the fund account against which the expense is to be charged. Where the amount of the contract exceeds \$50,000.00, the contract shall be approved by the Authority Board. In the case of professional services, qualifications and experience to the benefit of the Authority shall receive first consideration. Upon determination of these factors, a price or fee may be negotiated.

3.01.140 REGULATIONS REGARDING SELECTION OF CONTRACT SERVICES

The Chief Administrative Officer shall, by Resolution, prescribe procedures, rules, and regulations governing the solicitation, selection and award of proposals or bids for the furnishing of personal services or professional or consulting services or for other contractual services, the contracts for which may be awarded without observing the bidding procedures provided for in this Chapter. Such procedures, rules, and regulations shall have as one purpose the obtaining of contractual services of the highest quality together with cost effectiveness.

3.01.150 WAIVER

The Board, in an appropriate circumstance as determined by the Board, may waive any provision of this Article when deemed in the best interests of the Authority.

ARTICLE 3.02. PUBLIC WORKS CONTRACTS

3.02.010 PROCEDURE—TYPE DESIGNATED FOR CERTAIN PURCHASES

(a) Public projects of less than \$35,000 may be let to contract by informal bidding procedures. The value of a public project that may be let to contract by informal bidding shall increase annually at the rate of \$5,000.00 per year, commencing on July I, 1997. In no event, however, shall the value of such public project exceed \$50,000.00.

(b) Each public project with a value greater than that specified in subsection (a) of this Section shall, in all instances, be let to contract by formal bidding procedure.

3.02.020 PROCEDURE—INFORMAL

(a) The notice inviting informal bids shall be by published notice and may, in addition, be supplemented by mailed notice. The Chief Administrative Officer may cause the notice to be printed as display advertising in such form and style as the Chief Administrative Officer deems appropriate. The notice shall describe in general terms the project to be done and state closing date for submission of such informal bids. Publication of notice pursuant to this section shall be in a newspaper of general circulation printed and published within the jurisdiction of the Authority. Notice shall be published in accordance with Section 6061 of the Government Code and shall be completed at least twenty-four (24) hours before the time scheduled for opening of the bids.

(b) In addition to notice published in a newspaper of general circulation, or mailed, pursuant to this section, the Chief Administrative Officer may also publish notice inviting bids in a trade publication.

(c) Bids shall be opened, examined, and declared by the Chief Administrative Officer or his/her designee at a public meeting called by the Chief Administrative Officer in accordance with the notice inviting bids. The results of the bidding shall be reported to the Authority Board at the next regular meeting after the bid opening. (*Ord. 99-04, 2/18/1999*)

3.02.030 PROCEDURE—FORMAL

(a) The notices inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly state the project to be done. The first publication or posting of the notice shall be at least ten days before the date of opening the bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation, printed and published in the jurisdiction of the Authority.

(b) In addition the Chief Administrative Officer may also publish notice inviting bids in a trade publication.

(c) Bids shall be opened, examined, and declared by the Chief Administrative Officer or his/her designee at a public meeting called by the Chief Administrative Officer in accordance with the notice inviting bids. The results of the bidding shall be reported to the Authority Board at the next regular meeting after the bid opening. (*Ord. 99-04, 2/18/1999*)

3.02.040 REJECTION OF BIDS

In its discretion, the Authority Board may reject any bids presented. If, after the first invitation for bids and after reevaluating its cost estimates of the project all bids are rejected, the Authority Board shall abandon the project or shall re-advertise for bids in the manner prescribed by this Article. If, after re-advertising, the Authority Board rejects all bids presented, the Authority Board may proceed with the project by use of Authority personnel or may re-advertise. If two or more bids are the same and the lowest, the Authority Board may accept the one it chooses. If no bids are received, the Authority Board may have the project done by further complying with this chapter.

3.02.050 LOWER NEGOTIATED PRICE OR PERFORMANCE BY AUTHORITY PERSONNEL

Notwithstanding the provisions of Section 3.02.040, if, after the first invitation for bids, all bids are rejected, the Authority Board may, after reevaluating its cost estimates of the project, pass a Resolution by a four-fifths vote of its Board declaring that the project can be performed more economically by Authority personnel, or that in its opinion a contract to perform the project can be negotiated at a lower price than that in any of the bids. Upon adoption of the Resolution, it may have the project done in the manner stated without further complying with this Article.

3.02.060 PLANS AND SPECIFICATIONS

The Authority Board shall adopt plans, specifications, and working details for all public projects the expenditure for which exceeds the value of public projects specified in Section 3.02.010 of this Code. Such plans, specifications, and working details may be approved at the time the notice is authorized or at the time the Authority Board approves a contract.

3.02.070 WAIVER

The Board, in an appropriate circumstance as determined by the Board, may waive any provision of this Article when deemed in the best interests of the Authority.

ARTICLE 3.03. DISPOSAL OF AUTHORITY PROPERTY
(reserved)

ARTICLE 3.04. CLAIMS AGAINST AUTHORITY

3.04.010 FILING REQUIREMENT

All claims against the Authority shall be filed with the Clerk to the Authority. The Clerk to the Authority Board shall transmit copies of all such claims to the Chief Administrative Officer. For the purpose of this Article, the term "Chief Administrative Officer" shall mean a person designated by the Chief Administrative Officer, including the Chief Administrative Officer, and such person may include a contractor of the Authority who performs risk management or claims adjustment duties for the Authority.

3.04.020 PROCESSING OF CLAIMS AGAINST THE AUTHORITY

(a) The Chief Administrative Officer shall evaluate the sufficiency and form of all claims against the Authority and give notices relative to any deficiency of such claims to the claimant. The Chief Administrative Officer shall have all such claims investigated and shall prepare an investigative report and a recommendation relating to each such claim. The Chief Administrative Officer, with the concurrence of the Authority Counsel, may approve for payment any claim within the jurisdictional limits of a municipal court in the State of California, deny any claim amounting to \$50,000.00 or less, or compromise any claim in an amount less than the jurisdictional limits of a municipal court in the State of California. The Chief Administrative Officer shall be responsible for immediately notifying the claimant of such decision and expediting payment of any claim which has been approved or compromised.

(b) For all claims not disposed of pursuant to subsection (a) of this section, the Authority Counsel shall prepare and submit, as soon as practicable, a report to the Authority Board either in open session or in closed session, at the Authority Counsel's election, together with a recommendation that such claim be approved, compromised, or denied. The Authority Counsel shall advise the Chief Administrative Officer of the Board's decision in the matter. The Chief

Administrative Officer shall thereupon notify the claimant, in writing, of the decision and expedite payment of any claim which has been approved or compromised.

(c) Notwithstanding the above provisions, the Chief Administrative Officer shall notify and send copies of all claims which are determined by the Chief Administrative Officer to be covered by insurance to the insurance carrier which provides coverage to the Authority, and shall be the Authority liaison with such carriers for the purpose of any claim involvement.

(d) In order to protect the best interest of the Authority and the officers, employees, and agents of the Authority with regard to the investigation, defense, or adjustment of applicable claims incurred against the Authority or its officers, employees, and agents, the Chief Administrative Officer and the Authority Counsel are directed to establish and maintain necessary administrative procedures and incident report forms to ensure the confidential coordination of case facts and related information. The procedures and forms will ensure reasonable use of the principle of privileged client-attorney communication for confidentiality in the defense or adjustment of all claims as provided by law.

(e) The legal defense of claims filed against the Authority which are not covered by insurance shall be the responsibility of the Authority Counselor, a legal firm or firms designated by the Authority Board. Authorized legal defense costs in conjunction with the defense of such claims shall be paid from Authority funds from an appropriate liability reserve account as established by the Authority Board.

3.04.030 PROCEDURE FOR COLLECTION, COMPROMISE, AND WRITE-OFF OF CLAIMS OF THE AUTHORITY AGAINST OTHERS

(a) Claims of the Authority against other persons or entities shall be handled according to the procedures designated in this section.

(b) The Chief Administrative Officer is authorized to pursue collection of any claims of the Authority against others. The Chief Administrative Officer may, in furtherance of such claims collection, accept a promissory note to repay the claim over a period of time, file a small claims court action to secure a judgment when the amount of the claim does not exceed the small claims court jurisdictional limit, or assign the claim, promissory note, or judgment to a collection agency. When the Chief Administrative Officer determines it is in the best interest of the Authority to do so, considering the cost of collection and the merits of the claim, the Chief Administrative Officer may:

- (1) Accept a compromise settlement and write off the balance of the claim as uncollectible, where the amount of the write-off does not exceed the small claims court jurisdictional limit;
- (2) File an action in small claims court and write off any amount in excess of such court's jurisdiction, where the amount of the write-off does not exceed the small claims court jurisdictional limit, or
- (3) Write off the claim in full where the amount of the write-off does not exceed the small claims court jurisdictional limit.

(c) Any claim which cannot be collected in full or disposed of in accordance with this subsection shall be sent to Authority Counsel for collection.

(d) The Authority Counsel shall pursue collection and may, in furtherance of such collection, accept a promissory note to repay the claim over a period of time, file an action in the appropriate court to secure a judgment, or assign the claim, promissory note, or judgment to a collection agency. When the Authority Counsel determines it is in the best interest of the Authority to do so, considering the cost of collection and the merits of the claim, the Authority Counsel may:

- (1) Authorize the Chief Administrative Officer to accept a compromise settlement and write off the balance of the claim as uncollectible where the amount of the write-off does not exceed the municipal court jurisdictional limit; or
- (2) Authorize the Chief Administrative Officer to file an action in small claims court and write off any amount in excess of such court's jurisdiction, where the amount of the write-off does not exceed the municipal court jurisdictional limit; or
- (3) Authorize the Controller to write off the claim in full where the amount of the write-off does not exceed the municipal court jurisdictional limit.

(e) When the Authority Counsel determines it is in the best interest of the Authority to accept a compromise settlement of the claim and write off the balance as uncollectible, or to write off the claim in full as uncollectible, the Authority Counsel shall submit the matter to the Authority Board for approval where the amount of the write-off exceeds the municipal court jurisdictional limit.

CHAPTER 4. RECYCLING REGULATIONS

ARTICLE 4.01 MANDATORY RECYCLING

4.01.010 PURPOSE

The purpose of this Chapter is to:

(a) Promote recycling by requiring residents, businesses, owners of non-residential properties, public facilities and commercial buildings to source separate recyclable waste materials from all other solid waste for recycling and provide for the collection of recyclable materials;

(b) Comply with the California Integrated Waste Management Act of 1989, Assembly Bill 939 (AB 939), including its requirement that each local jurisdiction in the state divert 50%, or the maximum amount feasible, of discarded materials from landfills, as well as contribute to the reduction of potential greenhouse gas emissions in compliance with the California Global Warming Solutions Act of 2006 (AB 32); Comply with the Authority Board Resolution No. 2005-56 establishing a phased goal of Seventy Five Percent (75%) diversion from landfills of total waste generated within the Authority's jurisdiction by December 31, 2015;

(c) Foster the Authority's vision of reducing waste through promotion of individual and corporate responsibility;

(d) Establish requirements for recycling of recyclable waste materials generated by single family residential, Multi-family dwelling units, public facilities, commercial facilities, properties and special events, in order to increase the diversion of recyclable and compostable materials from landfill disposal, thus reducing greenhouse emissions, minimizing waste and helping to ensure the maintenance, restoration, enhancement, and protection of the environment, including natural resources;

(e) Work collaboratively with private waste and recyclable collection companies within the framework of the Franchise Collection Agreements of the Authority's member agencies to facilitate enforcement mechanism(s) to ensure that all waste Generators within the Authority's jurisdiction provide for the proper source separation and collection of recyclable materials;

(f) Work collaboratively with law and code enforcement officials to provide protections and remedies to the maximum extent of the law against illegal scavenging of materials; and,

(g) Provide an exemption for generators who self haul, donate or sell their recyclables; as well as provide an exemption process for those businesses that have major site constraints or generate a minimum level of material and are exempt under terms of current franchise agreements or other ordinances for waste hauling.

4.01.020 FINDINGS

The Authority finds and determines:

(a) The California Integrated Waste Management Act of 1989 as amended requires cities and counties to reduce, reuse and recycle solid waste generated in the state to the maximum extent feasible before disposal of waste, to conserve water, energy and other natural resources, and to protect the environment.

(b) The Authority’s member agencies have attained the disposal reduction requirements of AB 939, and additional efforts as identified by the 2007 Waste Characterization Study in the recycling of paper, cardboard, textiles, organic materials, and other recyclable materials generated by residents and businesses, will assist the Authority’s member agencies in maintaining and exceeding the goal of diverting waste from landfill disposal.

(c) Organic or compostable waste that is buried in the anaerobic conditions of landfills creates methane gas and leachate that may adversely impact air and water quality. Reduction or capture of methane is critical as methane gas from the decomposition of waste is a source of renewable energy, and if not collected and controlled, methane gas is at least twenty-one times as potent as carbon dioxide in contributing to climate change.

(d) Efforts by the cities, County and the private sector to encourage voluntary diversion of commercial and special event recyclable materials have not achieved desired levels of diversion and additional efforts are necessary to ensure continued compliance with AB 939 requirements, Authority diversion goals, and ensure maximum recovery of valuable resources.

(e) Mandatory residential and commercial recycling programs in other cities and counties in California, similar to the one implemented by this Chapter, have increased diversion amounts by as much as 30%.

(f) This ordinance requires diversion of Authority identified recyclable materials by single family residences, Multi-family dwelling units, businesses, commercial facilities, commercial properties, and will contribute toward the creation and maintenance of a healthy, viable environment for current and future generations.

(g) Where an inconsistency or conflict exists with provisions of current Franchise Agreements between a Franchise Hauler and any Member Agency, or between this Ordinance and the ordinances of any Member Agency, the Franchise Agreement, Member Agency ordinance or state statute or regulation shall have precedence over this Ordinance. Any disagreement or dispute regarding the meaning, definition or implementation of any section of this Ordinance, where an inconsistency or conflict is alleged to exist between this Ordinance and the terms of any Franchise Agreement or Member Agency ordinance, shall be resolved by consultation between the Authority’s General Counsel and the appropriate City Attorney or County Counsel.

4.01.030 DEFINITIONS

As used in this Chapter, the following terms shall have the following meanings:

“**AB 32**” means Assembly Bill 32, the California Global Warming Solutions Act of 2006, Health and Safety Code 38500 et seq and any amendments.

“**AB 939**” means Assembly Bill 939, the California Integrated Waste Management Act of 1989, Public Resources Code 40000 et seq and any amendments.

“**Authority**” means the Salinas Valley Solid Waste Authority, a Joint Powers Authority consisting of the municipal corporations of the City of Salinas, City of Gonzales, City of Greenfield, City of King, City of Soledad, and the County of Monterey, a political subdivision of the State of California.

“Authority Chief Administrative Officer” means the current or acting Authority Chief Administrative Officer of the Salinas Valley Solid Waste Authority, including his or her designee.

“Authorized Recycler” means any person or business entity which lawfully collects, accepts, transports or otherwise processes Recyclable Materials from Generators for a fee or profit through a proper permit, business license, franchise agreement or other regulatory structure or authorization issued by the Authority or any of its member agencies.

“Business” means any commercial entity, including, but not limited to: proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, corporation which is organized for financial gain or for profit; or non-profit corporation or entity, or industrial or manufacturing, restaurant, wholesale or retail facility, service establishment, office, markets, office buildings, hotels, motels, shopping centers, and theaters.

“Collects or Collection” means to take physical possession of and remove solid waste or recyclable materials at the place of generation.

“Construction and Demolition Materials” means discarded materials from construction, renovation and demolition projects that are not water soluble and are non-hazardous in nature, including but not limited to, wood, steel, glass, brick, concrete, asphalt, pipe, gypsum, wallboard, roofing shingles or shakes, lumber and/or landscaping, and including rocks, soils, tree remains, trees, other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project, clean cardboard, paper, plastic, wood, and metal scraps.

“Commercial Facilities” means any facilities that are not residential facilities and including, but not limited to, a commercial facility, restaurant, retail facility, office, manufacturing or industrial facility, markets, office buildings, hotels, motels, boarding and lodging houses, tourist cabins, hostels, shopping centers, theaters, government facilities and schools, and hospitals, Multi-family Dwellings of five (5) or more units, located within the boundaries of the Authority.

“Compostable Material and Compost” means green waste and other organic material that can be broken down into, or otherwise become part of, usable compost (e.g., soil-conditioning material) in a safe and timely manner. Compostable material includes waste such as food scraps, soiled paper, and plant trimmings. Specifically, compost is defined in state law as the product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal waste stream, or which are separated at a centralized facility. Compostable material includes vegetable, yard and wood wastes which are not Hazardous Waste (Ca PRC 40116). Compostable materials can also include disposable plastic food service ware and bags if labeled “Compostable”, in accordance with the Department of the Environment regulations for easy identification, meeting the ASTM Standard Specification (D6400) for compostable plastics, and consistent with State labeling law (California Public Resources Code Section 42359) that any plastic bag or food container labeled “Compostable” must meet the ASTM Standard Specification for compostable

plastics. Compost may also include the product of anaerobic digestion or other conversion technologies.

“Customer” means a Generator that contracts for Solid Waste removal services and enters into a service agreement with a Franchised Hauler or Authorized Recycler for Recycling services or a premises required by a municipality or political subdivision to establish waste collection service. In the event a Business, non-residential property or Commercial Facility shares Solid Waste or Recycling containers and/or service, Customer refers only to the entity that arranges for the service.

“Disposal” means the final disposition of Solid Waste at a permitted Landfill or other permitted solid waste disposal facility, as defined in California Public Resources Code 40192.

“Diversion or Divert” means the reduction or elimination of Solid Waste from solid waste disposal in accordance with California Public Resources Code 41024.

“Food Vendor” means any and all sales outlets, stores, shops, vehicles or other places of business located or operating within the jurisdictional boundaries of the Authority that operate primarily to sell or convey foods or beverages to consumers.

“Franchise” means a commercial solid waste collection franchise contracted for or issued by each of the Authority’s member agencies or the Authority to a Hauler.

“Franchised Hauler” means a Hauler holding a franchise, contract, license or permit issued by the Authority’s member agencies which authorizes the exclusive or non-exclusive right to provide solid waste handling services within all or part of the jurisdictional boundaries of Authority.

“Generator” means an owner or Responsible Party for a residence, single family, Multi-family dwelling, Commercial Facility or Business including non-residential property which generates Recyclable or Compostable Materials as a result of its Business, Commercial Facility or property activity. Generator may also include tenants, property managers for facilities with leased space, employees and contractors of Generator as well as a Responsible Party for Special Events. A Generator also includes the Authority’s member agencies, its facilities, its non-residential properties and Special Events it sponsors or co-sponsors, within the Authority’s jurisdiction.

“Hauler” means any person or commercial entity which Collects, hauls, or transports Solid Waste or Recyclables for a fee by use of any means, including but not limited to a dumpster truck, roll off truck, side-load, front-load, rear-load garbage truck or a trailer

“Landfill” means a permitted disposal site which accepts solid waste.

“Multi-family Dwelling” means a residential structure having five (5) or more dwelling units located on a single parcel of land. Multi-family complexes would include all apartment complexes, mobile home parks, multi-storied residential units, senior housing/care facilities, and large condominium complexes.

“Recycle or Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place as defined in Public Resources Code 40180. Recycling does not include burning, incinerating, or thermally converting solid waste as defined in Public Resources Code Section 40201.

“Recycling Facility” means a Recycling, Composting, materials recovery or re-use facility that is fully licensed, certified and eligible under federal, state and local laws and regulations and includes those materials recovery or reuse facilities or operations that receive, process, Compost, and transfer to market Recyclable and/or Compostable Materials that have been Source Separated from the Solid Waste stream. The Recycling Facility may be located at a Landfill or waste transfer station operation site.

“Recyclable Materials” means materials that have been separated from the solid waste stream prior to disposal and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place and that are not landfilled. Recyclable materials include any materials identified by the Authority for which a market or alternative to landfilling exists, including but are not limited to: plastic bottles and jars, paper, cardboard, mixed waste paper, including computer paper, magazines, junk mail, catalogs, Kraft bags and Kraft paper, paperboard, egg cartons, phone books, grocery bags, colored paper, construction paper, envelopes, shoe boxes, cereal boxes, newspaper, newspaper inserts, coupons, and store advertisements, glass containers including brown, clear and green bottles and jars, aluminum, including beverage containers, foil, food containers, small scrap metal, steel or tin containers or cans, milk and juice cartons, PETE and HDPE plastic containers, natural and colored, mixed plastic containers #3 through #7, plastic bags when bagged and secured, construction and demolition materials, as well as Compostable materials such as green waste, yard waste or food waste.

“Residential” means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including single- and Multi-family Dwellings of up to four (4) units.

“Responsible Party” means the individual or entity responsible for the Generator’s management of Solid Waste and/or Recycling at the Generator’s Single family residential, Multi-family dwellings, Commercial Facility, Business, non-residential property, or Special Event.

“Rubbish” means non-putrescible Solid Wastes that can be stored for long periods of time without decomposition and odiferous release, such as ashes, paper, cardboard, tin cans, yard waste, wood, glass, bedding, crockery, plastics, rubber-by-products and litter.

“Scavenging or Scavenger” means the uncontrolled and unauthorized removal of Recyclable Materials at any point in the solid waste management system.

“Self Haul or Self Hauling” means a Generator or Responsible Party who transports his or her own Recyclable or Compostable Materials to a Recycling Facility by utilizing a vehicle

owned by that Generator or Generator's employees or the Responsible Party rather than using the hauling services of a Franchise Hauler or Authorized Recycler.

“Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes, which are acceptable at Class III landfills. Solid waste does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with Section 25800) of Division 20 of the Health and Safety Code or medical waste.

“Source Separate or Source Separation” means the process of removing Recyclable Materials from Solid Waste at the place of generation, prior to collection, into separate containers that are separately designated for Recyclables, Compostables or Trash for the purposes of Recycling.

“Special Event” means a community, public, commercial, recreational or social event which may serve food or drink and which may require a permit or co-sponsorship from the Authority's member agencies. Special events may include the temporary or periodic use of a public street, publicly owned site or facility, or public park and which is expected to have 500 or more persons in attendance.

“Trash” means material that is designated for Landfill Disposal by the collector and does not include either Recyclable or Compostable materials. The term Trash does not include hazardous waste, as defined in California Health and Safety Code Sections 25100 et seq., or Construction and Demolition debris as defined in this Chapter.

4.01.040 SOURCE SEPARATION REQUIREMENTS

(a) Each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this ordinance. Each Generator shall:

- 1) Source Separate Recyclable Materials from Solid Waste; and
- 2) Subscribe to an appropriate level of Recycling service based on amounts generated that includes at a minimum, the collection of Recyclable Materials; and
- 3) Enter into a service agreement with a Franchised Hauler or Authorized Recycler if required by the current Ordinance and Franchise Agreement for the jurisdiction, unless exempt from Franchised collection services by the franchising jurisdiction; or
- 4) Complete a Self Hauling form certifying that any Self Hauling activities by the Generator or Responsible Party will be completed in accordance with this ordinance or any other applicable law or regulation. A copy of such form shall be available to the Authority Chief Administrative Officer, upon request.

(b) Each Generator shall utilize Recyclable Materials collection containers, to be used in residences, maintenance or works areas where Recyclable Materials may be collected and/or stored.

(c) Each Multi-family or Commercial Generator shall prominently post and maintain one or more signs in, maintenance or work areas or common areas where Recyclable Materials are collected and/or stored that specify the materials to be Source Separated in addition to collection procedures for such materials. Such notification will be written in English and Spanish, and any other language which is native to 25% or more of the population within the jurisdiction

(d) Each Multi-family or Commercial Generator shall notify and instruct residents or employees in writing of applicable Source Separation requirements, including outreach and training on what materials are required to be Source Separated and how to Source Separate such material. A copy of such instruction or training materials shall be provided to the Authority upon request.

(e) All material shall be placed for collection in covered collection containers conforming to requirements of this article, the presiding Franchise Agreement and applicable laws. No container shall be loaded beyond its capacity. It shall be the Generator's responsibility to keep their containers used for the storage and collection of material generated on their premises in a clean and sanitary condition. No material or containers shall be kept or handled in such a manner as to become a nuisance. No putrescible materials shall be commingled with recyclables. No material shall be allowed to become odoriferous or attract vermin. Lids on containers shall remain closed at all times while stored or placed for collection.

(f) Each Generator shall ensure that Recyclable Materials generated at the Generator's site will be taken only to a Recycling Facility or make other arrangements to ensure that the materials are Recycled and not delivered to a Landfill or waste transfer station for Disposal. Generator shall not dispose of, or arrange for Disposal of Recyclable Materials by placement in a Landfill except in an emergency situation. Further, all Generators are encouraged to consider Recycling additional materials, whether or not they have been specifically designated by the Authority.

(g) The Recycling service agreement and other Recycling documents shall be available for inspection by the Authority, at the principal location of the Generator's Business, Commercial Facility, Special Event or non-residential property during normal business hours.

(h) No Franchised Hauler or Authorized Recycler shall be held liable for the failure of its Customers to comply with such regulations, unless specified in the franchise, contract or permit issued by the Authority or respective Authority member agency.

4.01.050 FRANCHISED HAULERS AND AUTHORIZED RECYCLERS

No person shall provide services as a Hauler of Recyclables within the boundaries of the Authority without either: 1) being a Franchised Hauler duly authorized by the Authority or one or more of the Authority's member agencies, or 2) becoming an Authorized Recycler.

Franchised Haulers and Authorized Recyclers shall offer collection service and automatic and non-automatic lift containers, bins or roll off bins for Recyclable Materials sufficient to accommodate the quantity and types of Recyclable Materials to all of its Customers and shall provide Recycling Services as described in Section 4.01.060.

Franchised Haulers and Authorized Recyclers shall identify automatic and non-automatic lift containers, bins or roll of bins for Recyclable Materials with either its name, recognizable corporate or company logo, and/or phone number of the Authorized Recycler that is legible from a distance of fifty (50) feet.

Where secure enclosures are not available, Franchised Haulers and Authorized Recyclers shall equip and provide automatic and non-automatic lift containers, bins and roll off bins for

Recyclable Materials, with locks and/or other suitable features to prevent Scavenging, where feasible, and shall conduct all activities in accordance with applicable laws, Authority codes, city or County codes as applicable, and regulations and best management practices. Vehicles and equipment and containers shall be kept in a clean and well-maintained condition. Vehicles used by Franchised Haulers and Authorized Recyclers shall be permitted by the Monterey County Health Department pursuant to Section 10.41 of the Monterey County Code.

Franchised Haulers and Authorized Recyclers shall not take a Customer's Recyclable Materials to a Landfill or other site for Disposal for burial, but to a Recycling Facility or make other arrangements for recycling the materials instead of Disposal. The Franchised Haulers and Authorized Recyclers shall maintain a copy of a service agreement and/or receipts documenting that the Generator's Recyclable Materials have been properly delivered, as well as any documentation evidencing an event of force majeure which prevented the proper delivery of Recyclable Materials. Such documents shall be available for inspection by the Authority Chief Administrative Officer at the place of business during normal business hours and maintained for not less than 3 (three) years. Unless otherwise directed by a member agency to obtain information described in Section 04.01.050(e) from its Franchised Hauler, the Authority Chief Administrative Officer shall request the information directly from the member agency.

4.01.060 RECYCLING SERVICES

(a) The Recycling Services provided by Franchised Haulers and Authorized Recyclers shall include, at a minimum, all of the following:

- (1) Collection of Recyclable Materials at an appropriate interval specified by the Franchise Agreement, applicable law, contract, license or permit.
- (2) Collection of Recyclable Materials as identified by Authority Chief Administrative Officer;
- (3) Utilization of Recycling receptacles which comply with Franchise Agreement standards; or if such standards are not defined; to the Authority's standards.
- (4) Designated Recycling Collection and Storage areas;
- (5) Appropriate signage on all Recycling receptacles, containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for Recyclables, Compostables or Trash.

(b) Occupant Education. For Multi-family facilities, the Responsible Party shall provide information about Recycling Services, which may be accessed at the Authority or Franchised Hauler's business location or website as follows:

- (1) Types of Recyclable Materials accepted, the location of Recycling containers, and the occupant's responsibility to Recycle pursuant to this Chapter; this information shall be distributed to all occupants annually;
- (2) All new occupants shall be given information and instructions upon occupancy; and
- (3) All occupants shall be given new information and instructions upon any change in Recycling service.

4.01.070 EXEMPTIONS

(a) The following shall be exempt from the requirements of this Chapter:

- (1) The United States, State of California, a special district or other local public Agency or any employee or member of the Armed Forces thereof, when

collecting or transporting Recyclable Materials produced by operation or system of the entities described above.

- (2) Municipal corporations and governmental agencies other than Authority's member agencies using their own vehicles and employees engaged in the collection, transportation, or disposal of Recyclable Materials within the boundaries of their city limits or county lines.
- (3) Any property which has a valid exemption for trash collection service allowed under a franchise agreement, municipal code, city charter or County statute; although Generator may subscribe to recycling services only from Franchised Hauler, if allowed by the jurisdiction or Franchised Hauling agreement.
- (4) Generator shall be exempt from the requirements if there are no Recyclable Materials being generated by any activities in the Generator's Business, Commercial Facility or non- residential property.
- (5) Generators may be exempted from the requirements of this Chapter by the Authority Chief Administrative Officer, if it is determined, through a site visit requested by the Generator that:
 - i. There is inadequate storage space for automatic lift containers, bins or roll off bins for Recyclable Materials on site and that it is infeasible for the Generator to share automatic lift containers, bins or roll off bins for Recyclable Materials with a Generator on an adjoining property; or
 - ii. Compliance with this Chapter will result in a violation of local zoning codes or city or County regulations for minimum parking spaces. However, if after reviewing the site, the Authority Chief Administrative Officer or his or her designee and the Franchised Hauler determines that it is feasible for Recycling containers to be placed either on site or shared with an adjoining business or property, then the Generator will not be exempted from these requirements and will be responsible for full compliance with this Chapter. In the unincorporated county, the decision whether to exempt a Generator from this provision shall be made jointly by the County Franchise Administrator and the Authority Chief Administrative Officer.
- (6) In the event a site visit determines that a Generator could reduce the size and/or number of trash collection containers to allow for containers for source separated materials and no other exemption condition exists, the Generator's level of service shall be changed to provide for recycling services. For Generator's located in the unincorporated county, the Authority shall request a change in the level of service through the Contract Administrator. The Franchise Hauler shall provide the Authority with the appropriate method or documentation to facilitate a change in the Generator's service.

4.01.080 SELF HAUL PROVISIONS

(a) Nothing in this ordinance shall preclude any person from Self Hauling Recyclable Materials generated by that person to a Recycling Facility. A Generator may transport Recyclable Materials generated at its business or property to a Recycling Facility (rather than hiring a Franchised Hauler or Authorized Recycler) only if the Generator completes its activity by utilizing a vehicle owned by either the Generator or Generator's employee. This Self Haul exemption does not include contracting for or hiring a third party to transport the Recyclable Materials. A Self Hauler must retain on site a Self Hauling form certifying that all Self Hauling activities will be completed in accordance with this Chapter or any other applicable law or regulation. The Self Hauling form shall be made available to the Authority Chief Administrative Officer or designee upon request. At a minimum, the Generator shall provide the following information on the Self-Hauling form:

- (1) The name, address and telephone number of the Generator's representative that is signing the Self-Hauling form;
- (2) A list of the types of Recyclable Materials that are being transported;
- (3) For each type of Recyclable Material, the amount that is being taken from the Generator's business or property to a Recycling Facility on a quarterly basis;
- (4) The name and address of the Recycling Facility; and
- (5) A written statement, signed by the Generator or representative, certifying that the Generator is in compliance with the requirements of this Section.

(b) The Authority Chief Administrative Officer or designee may restrict or prohibit Self-Hauling by a Generator if the Authority Chief Administrative Officer determines, after providing notice and an opportunity for a hearing, that the Generator's Self Hauling activities violate the provisions of this Section or any other applicable law or regulation.

(c) Sale or Donation

Nothing in this ordinance shall preclude any Generator from selling or exchanging at fair market value, for reuse or Recycling, Source Separated Recyclable Materials generated from that Business, Commercial Facility or property; or from donating to another entity for reuse or Recycling; Source Separated Recyclable Materials generated from that Business, Commercial Facility or property.

4.01.090 SPECIAL EVENTS RECYCLING

(a) For a Special Event, in addition to any other conditions the appropriate city or County requires as part of the Special Event permit, the Responsible Party shall provide Recycling receptacles in addition to trash receptacles throughout the event location to make Source Separation of Recyclables convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event.

(b) The minimum number of Recycling receptacles shall equal or exceed the number of Solid Waste receptacles. The Solid Waste and Recycling receptacles shall be placed as close together as possible throughout the event location in order to provide equally convenient access to users.

(c) All of the receptacles must have appropriate signage to identify the type of materials to be deposited and meet any additional design criteria established by the appropriate city or the County by regulation; and

(d) The types of Recyclable Materials suitable for deposit into each receptacle shall include at a minimum; plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, and cans. Each Recycling receptacle shall be clearly identified as a Recycling receptacle and shall be

labeled with a list, photos or pictures of types of Recyclable Materials which may be deposited into the Recyclable receptacle.

(e) The Responsible Person shall ensure that the Recyclable Materials deposited into the Recycling receptacles are delivered to a Recycling Facility. The Recycling Facility may be located at a Landfill or waste transfer station, but Recyclable Materials shall not be delivered to a Landfill or waste transfer station for Disposal.

4.01.100 OWNERSHIP / SCAVENGING OF RECYCLABLE MATERIALS

(a) All Recyclable Materials placed in automatic and non-automatic lift containers, bins or roll off bins for Recyclable Materials provided by any Franchised Hauler or Authorized Recycler sufficient to accommodate the quantity and types of Materials produced by or under the control of Generator shall be considered owned by and be the responsibility of either the Franchised Hauler or Authorized Recycler. Without permission of either the Franchised Hauler or Authorized Recycler, no person shall collect Recycling Materials placed in such containers, bins or roll off bins by Customers or Generators.

(b) All Recyclable Materials placed in Recyclable Materials containers provided or owned by the Generator and that are not set out for collection by the Franchised Hauler, shall be considered owned by and be the responsibility of that Generator.

(c) No person other than the person or Business under contract with the Generator of the Recyclable Materials to collect the Recyclable Materials, shall remove or otherwise interfere with Recyclable Materials which have been placed at a designated Recycling or Recycling Materials collection location. Except as authorized under Section 4.01.080, Self Haulers, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organize or direct the collection, removal or transportation of Recyclable Materials without being a Franchised Hauler or Authorized Recycler.

4.01.110 REPORTING

(a) The Authority shall request in writing from each Member Agency, any data or other information relevant to the administration of this ordinance including:

- (1) The total number of residential and commercial Customers they have in the Authority region by jurisdiction.
- (2) The frequency of Recyclable Materials collection service provided to the single family residence, Multi-family dwelling, Business, Commercial Facility or property;
- (3) The Recyclable Materials collected monthly in tons;
- (4) The location of the Recycling Facility (ies) to which the Recyclable Materials were taken during the reporting period.

Member Agencies nor the Franchised Hauler shall not be required to provide customer information deemed by the Member Agency or the Franchised Hauler to be proprietary or confidential.

4.01.120 IMPLEMENTATION AND ENFORCEMENT

(a) Effective upon a date specified by Resolution of the Authority Board, any single-family residence or Multi-family Dwelling of four (4) or fewer units not currently served shall be provided a Recycled Materials cart.

(b) Effective upon a date specified by Resolution of the Authority Board, all Multi-family dwellings of five (5) or more units, commercial, and industrial, other non-residential

Generators shall be provided the appropriate size and level of service for the amount of Recycled Materials produced on their premises.

(c) Effective upon a date specified by Resolution of the Authority Board, all customers that self-haul their garbage shall be prohibited from disposing of garbage with appreciable amounts of recyclable materials at any Authority facility. Customers shall be required to remove these items from their garbage before it will be accepted for disposal.

(d) Franchise Hauler, city or County and Authority shall work collaboratively to develop a food waste collection program to be implemented when feasible for the Franchise Hauler and the member agency, which may include a separate cart or container for collection, or introduction of food waste into residential yard waste carts.

(e) The type of cart or container, fee for service, day and hours of service are subject to the terms and provisions of the Franchise Agreement and any other regulations or laws in effect in the jurisdiction where the Generators premises is located and materials are generated.

(f) Within the enforcement provisions of the Franchise Agreement in effect within the city limits or areas of the County within the Authority's jurisdiction, and with written permission from the City Manager or County Chief Administrative Officer, the Authority Chief Administrative Officer is authorized to administer and enforce the provisions of Chapter 4.01 et seq. However, upon notification to the Authority Chief Administrative Officer, any member agency may administer and enforce the provisions of Chapter 4.01 et seq. The Authority Chief Administrative Officer or anyone designated by the Chief Administrative Officer to be an enforcement officer may exercise such enforcement powers. To the extent permitted by law, the Authority Chief Administrative Officer or designee may inspect any collection container, collection vehicle load, or receiving facility for collected Trash, or Recyclables within the Authority's jurisdiction.

(g) Notification and enforcement. If the Franchise Hauler or Authorized Recycler first finds incorrect materials in quantities greater than ten percent by volume in a collection container, the Franchise Hauler or Authorized Recycler shall notify the Generator by written notice attached to the Recycling container and shall maintain a list of all such noticing

(h) If the Franchise Hauler or Authorized Recycler finds incorrect materials in a collection container a second time, they shall notify the Generator by a written "Second Notice" attached to the Recycling container and shall maintain a list of all such Noticings.

(i) After the Franchised Hauler or Authorized Recycler has already left two or more tags for that Customer and that type of container, the Franchise Hauler or Authorized Recycler may refuse to empty the container if contamination occurs a third time, subject to California Code of Regulations Title 14, Section 17331, or as determined by the Authority Chief Administrative Officer. If the container is not emptied, the Franchised Hauler or Authorized Recycler must leave a tag and send a written notice to the Generator, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a Franchise Hauler or Authorized Recycler may not refuse on this basis to empty containers from Multifamily or Commercial properties with multiple tenants and joint account collection service due to excessive contamination, but may manage contaminated loads as solid waste and charge the Generators accordingly.

(j) The Franchised Hauler or Authorized Recycler shall, in addition to the above, upon request, provide to the Authority Chief Administrative Officer a list of the names and addresses of those Customers or Responsible Parties who have received tags or notices or whose containers have not been emptied due to non-compliance with this Chapter, or copies of the tags or notices, if

authorized by the appropriate city or County. The Franchised Hauler or Authorized Recycler shall also provide to the Authority Chief Administrative Officer, a list of the names, addresses, and service levels of the Customers and any additional information required by the Authority Chief Administrative Officer to assist the Franchised Hauler in education and enforcement efforts. Unless otherwise directed by a member agency to obtain information described in Section 04.01.120(j) from its Franchised Hauler, the Authority Chief Administrative Officer shall request the information directly from the member agency.

(k) Administrative Appeal. Unless otherwise expressly provided by the Authority's Code, and if not in conflict with an existing resolution or ordinance adopted by a member city or the County, any person adversely and directly affected by any determination made or action taken by the Authority Chief Administrative Officer pursuant to the provisions of this Chapter may file an administrative appeal on the prescribed form to the Authority's Executive Committee. If no appeal is filed within the time prescribed and consistent with Authority's procedures in the Authority's Codes, Resolutions or Policies, the determination or action of the Authority Chief Administrative Officer shall be final.

4.01.130 OTHER ACTIONS AND REMEDIES

(a) No other powers affected.

This Chapter does not do any of the following:

- (1) Otherwise affect the authority of the Authority Chief Administrative Officer, or designee to take any other action authorized by any other provision of law.
- (2) Restrict the power of a city attorney, district attorney, or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
- (3) Prevent the Authority Chief Administrative Officer or designee from cooperating with, or participating in, a proceeding specified in 04.01.120 (k) above.
- (4) Affect in any way existing contractual arrangements including franchises permits or licenses previously granted or entered into between the Franchised Hauler or Authorized Recycler and Authority.

(b) Cumulative Remedies

Any remedy provided under this article is cumulative to any other remedy provided in equity or at law. Nothing in this article shall be deemed to limit the right of the Authority or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the Authority or its authorized collection agent(s).

(c) Liability

Nothing in this article shall be deemed to impose any liability upon the Authority or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

4.01.140 FORMS, REGULATIONS AND GUIDELINES

(a) The Authority Chief Administrative Officer may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the permits, administration of this article, collection of fees and bonds and/or indemnities, or proof(s) of insurance. Additional regulations and guidelines proposed to aid in the administration

or enforcement of the provisions of this article shall be adopted by resolution by the Authority Board prior to their implementation.

(b) The Authority shall provide information on its website regarding what materials are accepted as Recyclables, Compostables, and Trash under this Chapter.

4.01.150 DISCLAIMER OF LIABILITY

(a) The degree of protection required by this Chapter is considered to be reasonable for regulatory purposes. The standards set forth in this Chapter are minimal standards and do not imply that compliance will ensure safe handling of Recyclables, Compostables or Trash. This Chapter shall not create liability on the part of the Authority, or any of its officers or employees for any damages that result from reliance on this Chapter or any administrative decision lawfully made in accordance with this Chapter. All persons handling discarded materials within the boundaries of the Authority should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Chapter, the Authority is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

4.01.160 DUTIES ARE DISCRETIONARY

(a) Subject to the limitations of due process and applicable requirements of State or federal laws, and notwithstanding any other provisions of this Code, whenever the words “shall” or “must” are used in establishing a responsibility or duty of the Authority, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

4.01.170 SEVERABILITY

(a) If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this article. Authority hereby declares that it would have passed this ordinance and adopted this article and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.