



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** February 2, 2023

Staff Contact: Darren Schulz, Public Works Director

Agenda Title: For Possible Action: Discussion and possible action regarding a proposed Interlocal Agreement ("Agreement") between Carson City and the Town of Gardnerville ("Gardnerville") to provide Gardnerville a discounted rate for one year to dispose of specified solid waste at the Carson City sanitary landfill ("Landfill"). (Darren Schulz, dschulz@carson.org, Rick Cooley, rcooley@carson.org)

Staff Summary: Gardnerville directly provides trash collection services within its jurisdiction, then disposes of that collected refuse at the Landfill. Carson City has proposed changes to the rates and fees for Landfill use. Gardnerville has requested a limited exception to those planned increases to allow it to phase in the City's increased rates over a one-year period. The Agreement requires Gardnerville to pay out-of-county rates like other such users, except that from July 1, 2023, to June 30, 2024, Gardnerville will pay \$66.00 per ton for municipal solid waste ("MSW") brought to the Landfill, instead of \$74.00 per ton.

Agenda Action: Formal Action / Motion **Time Requested:** 10 minutes

Proposed Motion

I move to approve the Interlocal Agreement as presented.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

December 1, 2022 (Item 18A): The Board of Supervisors ("Board") instructed City staff to initiate the process to increase rates and fees for use of the Landfill, with an emphasis on meeting financial goals while minimizing impacts on City residents.

Background/Issues & Analysis

When City staff notified Gardnerville of proposed rate and fee changes at the Landfill, Gardnerville requested that such fee increases be phased in to allow Gardnerville to adjust the collection service rates it charges Gardnerville residents through their budgetary process.

Gardnerville seeks a limited exception to the proposed rate and fee increases. That exception applies only to the Landfill's MSW rate; Gardnerville would not receive discounts for any other category of solid waste. Further, the discount would only apply to solid waste collected as part of Gardnerville's trash collection service, and the discount would last for one year only.

In Fiscal Year 2022, Gardnerville brought approximately 4,400 tons of waste to the Landfill as part of its trash collection service.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 277.180

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: General Fund - Landfill Fees 1013980-444010

Is it currently budgeted? No

Explanation of Fiscal Impact: Landfill fees will increase by an estimated \$35,200 in fiscal year ("FY") 2024 and by an estimated \$70,400 annually for FY 2025 forward. The FY 2024 estimated fees reflect a reduction of \$35,200 due to the phase-in of the new rates in the first FY.

Alternatives

Do not approve the Agreement and/or provide alternative direction.

Attachments:

[GARDNERVILLE CARSON INTERLOCAL Landfill Fee Incrse 011423v3.pdf](#)

Board Action Taken:

Motion: _____

1) _____
2) _____

Aye/Nay

(Vote Recorded By)

**INTERLOCAL AGREEMENT
RELATING TO THE PHASED INCREASE IN LANDFILL RATES**

This INTERLOCAL AGREEMENT is entered into by and between the Town of Gardnerville, a political subdivision of the State of Nevada (hereinafter referred to as "GARDNERVILLE") and Carson City, a consolidated municipality and political subdivision of the State of Nevada (hereinafter referred to as "CARSON CITY") and hereinafter sometimes referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, NRS 277.100(1) defines a public agency eligible to enter into an interlocal contract, and CARSON CITY and GARDNERVILLE are public agencies under that definition; and

WHEREAS, NRS 277.180 provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the contracting agencies is authorized by law to perform; and

WHEREAS, CARSON CITY and GARDNERVILLE are authorized by the laws of Nevada to construct, improve, maintain, and provide capital improvements and related services for the disposal of solid waste; and

WHEREAS, GARDNERVILLE provides commercial and residential solid waste collection services within its boundaries (hereinafter, "SERVICES") and disposes of said solid waste at the Carson City Landfill located at 3600 Flint Drive in eastern Carson City (hereinafter, "LANDFILL"); and

WHEREAS, GARDNERVILLE desires to continue disposing of the solid waste collected as part of its SERVICES at the LANDFILL; and

WHEREAS, CARSON CITY is preparing to revise Carson City Municipal Code ("CCMC") 12.12.047 to increase rates and fees for disposing of solid waste at the LANDFILL; and

WHEREAS, GARDNERVILLE has requested that CARSON CITY phase in such fee increases as applied to compacted and uncompacted municipal solid waste ("MSW") that GARDNERVILLE delivers to the LANDFILL as part of its SERVICES; and

WHEREAS, CARSON CITY is permitted by the State of Nevada Division of Environmental Protection to receive solid waste at the LANDFILL;

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the Parties agree as follows:

1. REQUIRED APPROVAL. This AGREEMENT shall not become effective until and unless approved by appropriate official action of the governing body of each Party.

2. TERM OF AGREEMENT. The term of this AGREEMENT shall begin on July 1, 2023, or the date of last approval by a governing body, as discussed in paragraph 1 above, whichever is later. The term of this AGREEMENT shall end June 30, 2024.

3. CARSON CITY'S RESPONSIBILITIES.

a) CARSON CITY will accept solid waste at the LANDFILL that GARDNERVILLE has collected as part of its SERVICES, provided that solid waste meets Federal and State of Nevada Division of Environmental Protection requirements for disposal at the LANDFILL.

b) CARSON CITY staff will coordinate with GARDNERVILLE staff related to operational issues for disposal of solid wastes collected as part of GARDNERVILLE's SERVICES at the LANDFILL. CARSON CITY staff may restrict the volume or amount of solid waste received or change the manner in which solid waste received from GARDNERVILLE's SERVICES is disposed of at the LANDFILL.

c) CARSON CITY will submit an invoice to GARDNERVILLE for the cost of disposing of solid waste collected through the SERVICES at the LANDFILL. That invoice will be submitted to GARDNERVILLE monthly for the costs owed as of the prior month.

4. GARDNERVILLE'S RESPONSIBILITIES.

a) GARDNERVILLE will not knowingly allow or permit disposal of solid waste at the LANDFILL when such disposal could violate Federal, State, or CARSON CITY regulatory standards or policies.

b) GARDNERVILLE agrees to pay CARSON CITY the appropriate rates and fees for disposal of out-of-county solid waste based on the rates and fees set forth at CCMC 12.12.047, and any amendments thereto.

c) Notwithstanding the foregoing, the Parties agree that CARSON CITY will discount the MSW rate for GARDNERVILLE for a period of one year to allow GARDNERVILLE to appropriately budget for increased fees associated with LANDFILL use. Therefore, for solid waste properly categorized as MSW brought to the LANDFILL by GARDNERVILLE as part of its SERVICES, will be charged at a rate of \$66.00 per ton, instead of \$74.00 per ton, from July 1, 2023, to June 30, 2024. GARDNERVILLE shall pay standard out-of-county rates for MSW brought to the LANDFILL as part of its SERVICES beginning July 1, 2024.

d) GARDNERVILLE agrees to pay CARSON CITY no later than 30 days after receiving the invoice issued pursuant to paragraph 3(c) of this AGREEMENT.

5. **MUTUAL RESPONSIBILITIES.** Each Party agrees that their respective staff will mutually develop operational guidelines and other procedures needed to give the terms and intent of this AGREEMENT effect.

6. **NOTICES.**

a) All written notices under this AGREEMENT shall be delivered to the following officials at the addresses stated via email and via U.S. Mail:

Erik Nilssen, Town Manager
1407 US Hwy 395 N., Gardnerville, NV 89410
ehnilssen@douglasnv.us

Darren Schulz, Public Works Director
3505 Butti Way, Carson City, NV 89701
dschulz@carson.org

Either Party may from time to time, by notice in writing served upon the other as described above, designate a different address to which or a different person to whose attention all such notices or demands are thereafter to be addressed.

7. **LIMITED LIABILITY.** The Parties will not waive and intend to assert all available NRS Chapter 41 liability limitations in all cases. AGREEMENT liability of both Parties shall not be subject to liquidated damages or punitive damages. The Parties agree that, in the event one Party is awarded attorney's fees under this AGREEMENT for any reason, the rate applied to recoverable attorney's fees shall not exceed the rate of \$125 per hour.

8. **INDEMNIFICATION.**

a) To the fullest extent of NRS Chapter 41 liability limitations, each Party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the Party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any Party or person described in this paragraph.

b) The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The

indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with its own legal counsel.

9. **FORCE MAJEURE**: No party to this AGREEMENT shall be considered to be in default in the performance of any obligations under this AGREEMENT when a failure of performance shall be due to uncontrollable forces. The Term "uncontrollable force" shall mean any cause beyond the control of the Party unable to perform such obligation, including but not limited to failure or threat of failure of facilities, flood, earthquake, storm, fire, lighting, and other natural catastrophes, epidemic, war, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by order of a court or regulatory body or agency of competent jurisdiction, and any non-action by, or failure to obtain the necessary authorization or approvals from, a Federal governmental agency or authority, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to overcome. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it is involved or accede to claims or conditions which it believes to be adverse to its business or other interests.

10. **SEVERABILITY**. If any provision contained in this AGREEMENT is held to be unenforceable by a court of law or equity, this AGREEMENT shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this AGREEMENT unenforceable.

11. **TERMINATION; BREACH**. The Parties may mutually agree to terminate this AGREEMENT at any time through a signed writing. Either Party may, unilaterally and without cause, terminate this AGREEMENT by giving the other Party thirty (30) days advance, written notice. If a Party is in breach of a portion of this AGREEMENT, then the Party alleging such breach shall provide written notice to the other Party specifying the nature of the violation and allowing thirty (30) days for the Party in breach to correct the violation. If the breach is not corrected within the thirty (30) day period, then the non-breaching Party may immediately terminate this AGREEMENT and seek any appropriate, lawful remedies. Except as otherwise provided for by law or this AGREEMENT, the rights and remedies of the Parties are not exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages and reasonable attorneys' fees and costs.

12. **PUBLIC RECORDS**. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The Parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. To the extent that information or documents are made confidential, the Parties shall keep such information or documents confidential. A Party may clearly label specific parts of an individual document as a "trade secret", "confidential", or similar in accordance with applicable law, provided that the labelling Party thereby agrees to indemnify and defend the other Party for honoring such a designation. The failure to so label any document shall constitute a complete waiver of any and all claims for damages caused by any release of the document.

13. PROPER AUTHORITY. The Parties hereto present and warrant that the person executing this AGREEMENT on behalf of each Party has full power and authority to enter into this AGREEMENT and that the Parties are authorized by law to perform the services set forth in this AGREEMENT.

14. SEPARATE ENTITIES. The Parties are associated with each other only for the purpose and to the extent set forth in this AGREEMENT, and in respect to performance of services and payment of costs pursuant to this AGREEMENT, each Party is and shall be a public agency separate and distinct from the other Party and, subject only to the terms of this AGREEMENT, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this AGREEMENT. Nothing contained in this AGREEMENT shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other Party.

15. GOVERNING LAW: JURISDICTION. The laws of the State of Nevada apply in interpreting and construing this Agreement. The Parties consent to the jurisdiction of, and agree that disputes will be resolved by, the First Judicial District Court of the State of Nevada.

16. NO THIRD-PARTY BENEFICIARIES. It is specifically agreed between the Parties that none of the provisions this AGREEMENT create in the public or any member thereof a third-party beneficiary, or grant anyone not a Party to this AGREEMENT any right to maintain a suit for personal injuries or property damage under the terms or provisions of this AGREEMENT.

17. COUNTERPARTS. This AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same AGREEMENT.

18. ENTIRE AGREEMENT AND MODIFICATION. This AGREEMENT constitutes the entire AGREEMENT of the Parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other AGREEMENTS that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this AGREEMENT specifically displays a mutual intent to amend a particular part of this AGREEMENT, general conflicts in language between any such attachment and this AGREEMENT shall be construed consistent with the terms of this AGREEMENT. Unless otherwise expressly authorized by the terms of this AGREEMENT, no modification or amendment to this AGREEMENT shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

19. ASSIGNMENT. Neither Party may assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other Party.

IN WITNESS WHEREOF, the Parties hereto have caused this AGREEMENT to be executed as of the day and year of the last required signature set forth below.

GARDNERVILLE TOWN BOARD

CARSON CITY BOARD
OF SUPERVISORS

By: _____
Mike Henningsen
Chairman

By: _____
Lori Bagwell
Mayor

Date: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____
David H. Rigdon, Esq.
Town Attorney

By: _____
Deputy District Attorney

ATTEST:

ATTEST:

By: _____
Erik Nilssen
Town Manager

By: _____
William Scott Hoen
Clerk-Recorder

Date: _____

Date: _____