

**SIERRA PARK SERVICES Inc.**

**DOCUMENTATION AND EXHIBITS**

**SMALL CLAIMS COURT CASE SC19410**

SIERRA PARK SERVICES, Inc. (PLAINTIFF)

Rene' LaForge (DEFENDANTS)

TRIAL DATE: April 24, 2017 10:30, Department 3

**ATTACHMENTS:**

SPS, Inc./RA Operations/Maintenance MOU  
California Civil Code Section 845  
Lot Ownership  
SPS, Inc. 3-Year Budget & Assessments Summary  
Defendants Billing Balance Details  
Tuolumne Co. Ordinance Code  
What is Owed  
Per Lot Cost vs. Value Analysis  
Not attached - offer

# SIERRA PARK SERVICES, Inc.

P. O. Box 293, Mi Wuk Village, CA 95346, (209) 533-7909

TO: Odd Fellows Sierra Recreation Association (RA)

From: Sierra Park Services, Inc. (SPS, Inc.)

Date: March 1, 2017

Subject: Memorandum of Understanding Concerning Sierra Park Operations and Maintenance

This document will serve to memorialize an understanding between the RA and SPS, Inc.

By mutual agreement of their respective Boards of Directors, the Odd Fellows Sierra Recreation Association (RA) and Sierra Park Services, Inc. (SPS, Inc.) agreed effective June 1, 2013, that SPS, Inc. would assume ongoing operations and maintenance of the sub-division referred to as Sierra Park.

Included, but not limited to this agreement, is the maintenance of the roads, common areas, lake, garbage collection, pine-needle area, and any other needs (collectively "Services") that arise of a common nature relating to Sierra Park.

The respective Boards will be and function as independent entities. Neither Board will exercise any control over the other. As of the effective date, SPS, Inc. assumed responsibility for the collection from Sierra Park lot owners the annual cost of maintaining Sierra Park as was done in the past by the RA. SPS, Inc. will maintain a separate accounting system for collections and expenditures relating to its business in providing the aforementioned "Services."

This understanding does not address any transfer of assets from the RA to the SPS, Inc. (tools, rolling stock, buildings, etc.). In the future, this will be dealt with independently from this Memorandum of Understanding.

  
Heidi Ordwein, President, Sierra Park Services, Inc.      March, 2017  
Date:

Cc: OFSRA Board of Directors  
SPS, Inc. Board of Directors  
Representative attorneys for the associations.

## Civil Code Section 845.

845. (a) The owner of any easement in the nature of a private right-of-way, or of any land to which any such easement is attached, shall maintain it in repair.

(b) If the easement is owned by more than one person, or is attached to parcels of land under different ownership, the cost of maintaining it in repair shall be shared by each owner of the easement or the owners of the parcels of land, as the case may be, pursuant to the terms of any agreement entered into by the parties for that purpose. In the absence of an agreement, the cost shall be shared proportionately to the use made of the easement by each owner.

(c) If any owner refuses to perform, or fails after demand in writing to pay the owner's proportion of the cost, an action to recover that owner's share of the cost, or for specific performance or contribution, may be brought by the other owners, either jointly or severally. The action may be brought before, during, or after performance of the maintenance work, as follows:

(1) The action may be brought in small claims court if the amount claimed to be due as the owner's proportion of the cost does not exceed the jurisdictional limit of the small claims court. A small claims judgment shall not affect apportionment of any future costs that are not requested in the small claims action.

(2) Except as provided in paragraph (1), the action shall be filed in superior court and, notwithstanding Section 1141.13 of the Code of Civil Procedure, the action shall be subject to judicial arbitration pursuant to Chapter 2.5 of Title 3 of Part 3 (commencing with Section 1141.10) of the Code of Civil Procedure. A superior court judgment shall not affect apportionment of any future costs that are not requested in the action, unless otherwise provided in the judgment.

(3) In the absence of an agreement addressing the maintenance of the easement, any action for specific performance or contribution shall be brought in a court in the county in which the easement is located.

(4) Nothing in this section precludes the use of any available alternative dispute resolution program to resolve actions regarding the maintenance of easements in the small claims court or the superior court.

(d) In the event that snow removal is not required under subdivision (a), or under any independent contractual or statutory duty, an agreement entered into pursuant to subdivision (b) to maintain the easement in repair shall be construed to include snow removal within the maintenance obligations of the agreement if all of the following exist:

(1) Snow removal is not expressly precluded by the terms of the agreement.

(2) Snow removal is necessary to provide access to the properties served by the easement.

(3) Snow removal is approved in advance by the property owners or their elected representatives in the same manner as provided by the agreement for repairs to the easement.

(e) This section does not apply to rights-of-way held or used by railroad common carriers subject to the jurisdiction of the Public Utilities Commission.

# SIERRA PARK SERVICES, Inc. BUDGET & ASSESSMENTS

## 13/14 TO 15/16<sup>5</sup>

BUDGET ITEM	2013 - 2014	2014 - 2015	2015 - 2016	
	BUDGET	BUDGET	BUDGET	
<b>ROADS</b>	\$194,943	\$195,944	\$193,545	
Per Property Roads Amount <sup>1</sup> =	\$541.51	\$544.29	\$537.63	
<b>ANCILLARY</b>				
TRASH	\$17,125	\$17,522	\$19,300	
NEEDLES	\$20,353	\$21,045	\$18,300	
COMMON AREA MAINTENANCE	\$10,780	\$17,933	\$16,800	
GENERAL ADMINISTRATION	\$5,954	\$14,429	\$29,525	
ANCILLARY TOTAL =	\$54,212	\$70,929	\$83,925	
Less Other Anticipated Income and Retained Earnings =	-\$77,977	-\$73,129	-\$70,545	
Per Property Ancillary Amount <sup>1</sup> =	\$0	\$0	\$37.17	
SERVICES TOTAL <sup>2</sup> =	\$541	\$544	\$589	
Capital Improvement (Bridge Adder) <sup>3</sup> =		50	160	
TOTAL BILL FOR SERVICES <sup>4</sup> =	\$547	\$596	\$749	\$1,892
Late Fees =	\$225	\$325	\$275	\$825
				\$2,717

**NOTES:**

1. There are nominally 360 lots in the community (This is Total Cost Divided by that number).
2. An optional payment of \$50 (\$37 rounded up to \$50) was asked in 15/16 to cover the anticipated ancillary cost shortfall.
3. Shareholders voted to increase the proposed budget by this amount to replace an unsafe bridge.
4. The 13/14 bill was slightly higher because additional revenue received after the budget was proposed had not been applied.
5. Fiscal Year is June 1 to May 31.

The sum of \$2,717 is the amount owed by a property owner who made no payments over this period. As noted in SC-100, MC-031, the amount owed is in excess of \$5,000.00. The exact amount owed is \$5,452.00 This is the sum of the amounts of annual billings for two separate lots (#78 and #140) of (2X) \$547 for Fiscal Year (FY) 13/14, (2X) \$594 for FY 14/15, and (2X)\$750 for FY 15/16 plus accumulated late fee.

**Sierra Park Services, Inc.**  
**Customer Balance Detail**  
 As of May 31, 2016

Type	Date	Num	Account	Class	Amount	Balance
<b>LaForge, Rene' 078</b>						0.00
Invoice	06/06/2013	188	1200 · Accounts rec...		547.00	547.00
Invoice	09/11/2013	389	1200 · Accounts rec...		25.00	572.00
Invoice	10/15/2013	441	1200 · Accounts rec...		25.00	597.00
Invoice	11/13/2013	485	1200 · Accounts rec...		25.00	622.00
Invoice	12/17/2013	524	1200 · Accounts rec...		25.00	647.00
Invoice	01/14/2014	560	1200 · Accounts rec...		25.00	672.00
Invoice	02/06/2014	599	1200 · Accounts rec...		25.00	697.00
Invoice	03/15/2014	635	1200 · Accounts rec...		0.00	697.00
Invoice	03/15/2014	669	1200 · Accounts rec...		25.00	722.00
Invoice	04/22/2014	702	1200 · Accounts rec...		25.00	747.00
Invoice	05/07/2014	732	1200 · Accounts rec...		25.00	772.00
Invoice	06/04/2014	933	1200 · Accounts rec...		594.00	1,366.00
Invoice	06/05/2014	1119	1200 · Accounts rec...		25.00	1,391.00
Invoice	08/05/2014	1151	1200 · Accounts rec...		50.00	1,441.00
Invoice	09/09/2014	1211	1200 · Accounts rec...		25.00	1,466.00
Invoice	10/01/2014	1272	1200 · Accounts rec...		25.00	1,491.00
Invoice	11/04/2014	1322	1200 · Accounts rec...		25.00	1,516.00
Invoice	12/05/2014	1366	1200 · Accounts rec...		25.00	1,541.00
Invoice	01/07/2015	1410	1200 · Accounts rec...		25.00	1,566.00
Invoice	02/02/2015	1454	1200 · Accounts rec...		25.00	1,591.00
Invoice	03/02/2015	1497	1200 · Accounts rec...		25.00	1,616.00
Invoice	04/01/2015	1533	1200 · Accounts rec...		25.00	1,641.00
Invoice	05/04/2015	1581	1200 · Accounts rec...		25.00	1,666.00
Invoice	06/08/2015	1619	1200 · Accounts rec...		25.00	1,691.00
Invoice	06/10/2015	1820	1200 · Accounts rec...		750.00	2,441.00
Invoice	07/02/2015	2013	1200 · Accounts rec...		25.00	2,466.00
Invoice	08/03/2015	2051	1200 · Accounts rec...		25.00	2,491.00
Invoice	09/02/2015	2104	1200 · Accounts rec...		25.00	2,516.00
Invoice	10/01/2015	2132	1200 · Accounts rec...		25.00	2,541.00
Invoice	11/01/2015	2185	1200 · Accounts rec...		25.00	2,566.00
Invoice	12/01/2015	2234	1200 · Accounts rec...		25.00	2,591.00
Invoice	01/04/2016	2276	1200 · Accounts rec...		25.00	2,616.00
Invoice	02/01/2016	2318	1200 · Accounts rec...		25.00	2,641.00
Invoice	03/01/2016	2360	1200 · Accounts rec...		25.00	2,666.00
Invoice	04/04/2016	2402	1200 · Accounts rec...		25.00	2,691.00
Invoice	05/02/2016	2441	1200 · Accounts rec...		25.00	2,716.00
<b>Total LaForge, Rene' 078</b>					2,716.00	2,716.00
<b>LaForge, Rene' 104</b>						0.00
Invoice	06/06/2013	240	1200 · Accounts rec...		547.00	547.00
Invoice	09/11/2013	390	1200 · Accounts rec...		25.00	572.00
Invoice	10/15/2013	442	1200 · Accounts rec...		25.00	597.00
Invoice	11/13/2013	484	1200 · Accounts rec...		25.00	622.00
Invoice	12/17/2013	525	1200 · Accounts rec...		25.00	647.00
Invoice	01/14/2014	561	1200 · Accounts rec...		25.00	672.00
Invoice	02/06/2014	600	1200 · Accounts rec...		25.00	697.00
Invoice	03/15/2014	636	1200 · Accounts rec...		0.00	697.00
Invoice	03/15/2014	670	1200 · Accounts rec...		25.00	722.00
Invoice	04/22/2014	703	1200 · Accounts rec...		25.00	747.00
Invoice	05/07/2014	733	1200 · Accounts rec...		25.00	772.00
Invoice	06/04/2014	934	1200 · Accounts rec...		594.00	1,366.00
Invoice	06/05/2014	1120	1200 · Accounts rec...		25.00	1,391.00
Invoice	08/05/2014	1152	1200 · Accounts rec...		50.00	1,441.00
Invoice	09/09/2014	1212	1200 · Accounts rec...		25.00	1,466.00
Invoice	10/01/2014	1273	1200 · Accounts rec...		25.00	1,491.00
Invoice	11/04/2014	1323	1200 · Accounts rec...		25.00	1,516.00
Invoice	12/05/2014	1367	1200 · Accounts rec...		25.00	1,541.00
Invoice	01/07/2015	1411	1200 · Accounts rec...		25.00	1,566.00
Invoice	02/02/2015	1455	1200 · Accounts rec...		25.00	1,591.00
Invoice	03/02/2015	1498	1200 · Accounts rec...		25.00	1,616.00
Invoice	04/01/2015	1534	1200 · Accounts rec...		25.00	1,641.00
Invoice	05/04/2015	1582	1200 · Accounts rec...		25.00	1,666.00
Invoice	06/08/2015	1620	1200 · Accounts rec...		25.00	1,691.00
Invoice	06/10/2015	1821	1200 · Accounts rec...		750.00	2,441.00
Invoice	07/02/2015	2014	1200 · Accounts rec...		25.00	2,466.00
Invoice	08/03/2015	2052	1200 · Accounts rec...		25.00	2,491.00
Invoice	09/02/2015	2105	1200 · Accounts rec...		25.00	2,516.00

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**Sierra Park Services, Inc.**  
**Customer Balance Detail**  
As of May 31, 2016

Type	Date	Num	Account	Class	Amount	Balance
Invoice	10/01/2015	2133	1200 - Accounts rec...		25.00	2,541.00
Invoice	11/01/2015	2186	1200 - Accounts rec...		25.00	2,566.00
Invoice	12/01/2015	2235	1200 - Accounts rec...		25.00	2,591.00
Invoice	01/04/2016	2277	1200 - Accounts rec...		25.00	2,616.00
Invoice	02/01/2016	2319	1200 - Accounts rec...		25.00	2,641.00
Invoice	03/01/2016	2361	1200 - Accounts rec...		25.00	2,666.00
Invoice	04/04/2016	2403	1200 - Accounts rec...		25.00	2,691.00
Invoice	05/02/2016	2442	1200 - Accounts rec...		25.00	2,716.00
Total LaForge, Rene' 104					2,716.00	2,716.00

## Tuolumne County, California Ordinance Code

### **Sections:**

#### **7.30.010 Definitions.**

#### **7.30.020 7.30.030 7.30.040**

#### **Illegal and unauthorized dumping. Violation enforcement. Nonexclusive remedy.**

#### **7.30.010 Definitions.**

The following words and terms when used in this Chapter shall be construed as defined in this section, except as otherwise provided:

A. "Enforcement Officer" means the Solid Waste Manager, the director of the Community Resources Agency, the Health Officer or their designees.

B. "Person" means an individual, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other entity whatsoever.

C. "Premises" includes the property, easements abutting sidewalks, alleyways and the untraveled portion of an abutting public street.

D. "Permitted solid waste hauler" means any person who engages in the business of collecting and removing garbage and refuse and who has been issued a solid waste hauler permit by the Solid Waste Division, pursuant to the provisions of Title 7 of this code.

E. "Solid Waste System" means the approved waste facilities, hauling companies, agencies, and regulations which govern solid waste standards and handling. (Ord. 3173 § 1, 2011; Ord. 3003 § 1, 2008).

#### **7.30.020 Illegal and unauthorized dumping.**

A. Solid waste shall be managed to protect public health and the environment and in accordance with Titles 7 and 8 of this code. It is unlawful to dispose of solid waste outside the Solid Waste System and any such action shall be considered "illegal dumping." Any person who:

1. Fails to arrange for the lawful disposal of solid waste generated on premises which that person owns, occupies or is the person responsible for day-to-day operations thereof, for example, an owner of Residential Rental Property, as defined in Section 8.05.020, who fails to comply with Section 8.05.030 of this code, by failing to maintain a continuous subscription for regular solid waste removal by a permitted solid waste hauler when said premises are occupied;

2. Causes, maintains or permits solid waste to be deposited within the County in any manner that violates the provisions of this Chapter;

3. Causes or permits the deposit of solid waste on the right-of-way of any public highway, street, easement or thoroughfare, or upon any camping place or public grounds, or on any premises, or in any waste container, without the permission of the owner thereof, or into any stream or dry watercourse, within the County of Tuolumne, State of California, and outside of any incorporated city; or

4. Causes, maintains or permits the accumulation of solid waste which creates an unsanitary condition or permits or encourages the accumulation or breeding of vectors as determined by the Health Officer, or causes, maintains or permits solid waste to be placed in a waste container other than provided in this code;

is guilty of a misdemeanor and may be punished as provided in Chapter 1.08 of this code. Such person is also subject to the administrative/abatement procedures set forth in Chapter 1.10 of this code, as well as any other remedy provided by law.

B. Any condition which is a direct result of any of the acts/omissions set forth in Subsection A of this Section is hereby deemed to be a public nuisance subject to the administrative/abatement procedures set forth in Chapter 1.10 of this code, as well as any other remedy provided by law. (Ord. 3003 § 1, 2008).

#### **7.30.030 Violation enforcement.**

A. The administration and enforcement of this Chapter shall be the responsibility of Enforcement Officer.

#### **Chapter 7.30 ILLEGAL DUMPING**

B. For purposes of conducting any administrative hearing under Chapter 1.10 of this code, the presence of at least two (2) pieces of addressed mail or other identifying information in the dumped material shall be deemed to create a rebuttable presumption that the person so identified is responsible for the dumped material and is subject to the penalties and remedies provided for in this Chapter.

C. The scope of liability in this Chapter is joint and several for any person who has caused, created or contributed to a violation and/or a nuisance as defined in this Chapter. Any person seeking to apportion the harm must demonstrate by clear and convincing evidence that the component of harm which is sought to be apportioned is susceptible to apportionment, that there is a reasonable and practicable basis for apportioning the harm, and that the separate abatement activity proposed for that harm is a practicable, safe, efficient, reliable and cost-effective in providing the degree of protection of the public health, welfare and the environment as the abatement activity or activities, if any, proposed by the Enforcement Officer.

D. In a criminal proceeding alleging a violation of Section 7.30.020, a prima facie showing by the prosecution that a person's items, solid waste or property have been found in any location where it is unlawful to dispose of solid waste, under circumstances which would lead a reasonable trier of fact to conclude that the items had previously been discarded in that location, shall constitute a permissible inference that the person is guilty of a violation of Section 7.30.020. The mental state required for conviction of a violation of Section 7.30.020 is strict liability, without regard to any element of mens rea, fault, negligence or other wrongdoing.

E. In the event of a conviction of a violation of Section 7.30.020 and under appropriate circumstances, the court shall order the defendant to pay restitution to any public entity and/or private party which and/or who has incurred out-of-pocket expenses as a result of cleaning up an illegal dump site, as a rehabilitative measure, in addition to any penalty imposed. (Ord. 3003 § 1, 2008).

**7.30.040 Nonexclusive remedy.**

This Chapter does not exclusively regulate, enforce and/or penalize refuse disposal, illegal dumping of refuse and the other, lesser included violations set forth above. It supplements and is in addition to other regulatory and enforcement codes, statutes and ordinances heretofore or hereafter enacted by the County, the State and/or any other legal entity or agency having jurisdiction. (Ord. 3003 § 1, 2008).



**SUMMARY OF WHAT Mr. LaForge OWES  
For lots #78 and #104 (Rental Properties)**

Small Claims Court & 3-yr SoL Limit

WHAT	AMOUNT OWED	NOTES
Assessments: 2 Lots over 3-yrs	\$3,782	
Late Fees: 2 Lots over 3-yrs	\$1,650	
Less Bridge Adder	-\$200	
TOTAL =	\$5,234	
SCC limit and 3-yr SoL:	\$5,000	Write-Off: \$234

## PER LOT COST vs. VALUE ANALYSIS<sup>1</sup>

SERVICE PROVIDED	BUDGET AMOUNT	VALUE
Trash	\$52	\$324 <sup>2</sup>
Needle Dump	\$57	\$80 to \$100
Area Maintenance	\$44	Footnote 3 (+)
Administration	\$48	\$120 to \$150 <sup>4</sup>
Road Maintenance / Snow Plowing	\$558	\$558 <sup>5</sup>
Gate	0	\$75 to \$150+ <sup>6</sup>
TOTAL =	\$735	
Minus misc. revenue and profit applied to ancillary costs	(200)	\$200 <sup>7</sup>
ASKED TO PAY =	\$535	
VALUED AT =		\$816++ to \$1,465++

Footnotes:

1. Per lot cost based on budget average of 3 years - fy 2013, 2014, and 2015.
2. Curbside service per Waste Management, but SPS has contract with WM for entire community.
3. Fire, Life Safety, and Calfire access impossible to “value”.
4. Ancillary management costs (insurance, labor, benefits, etc.). Assumes costs for paid part time manager. Currently provided through volunteer BOD.
5. Calling this a “wash”. The county will not maintain or plow Park roads. Also consider Civil Code 845.
6. This represents the estimated additional costs of having property owners and others from outside the community illegally dump their trash and needles, added wear and tear on roads, potential for property theft, and risk of the Park being sued in the event of injury.
7. SPS, Inc. shareholders have always dedicated all profit and any other anticipated revenue beyond annual lot billing to All property owners.