

**GRANT AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY**

This Agreement is entered into this 22nd day of February, 2022, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and the South Bayside Waste Management Authority, hereinafter called "Grantee."

* * *

Whereas, Grantee is a Joint Powers Authority that provides waste, recycling, and organics collection to its twelve member agencies, which includes the County and ten cities within San Mateo County; and

Whereas, Grantee is a leader in innovative waste reduction programs; and

Whereas, Grantee wishes to purchase and install an Organics Extrusion Recovery System ("OREX") at its Shoreway Environmental Center, which will recover organic material in the solid waste stream; and

Whereas, recovering organic material that would otherwise remain in the solid waste stream will reduce the amount of landfilled waste generated in San Mateo County; and

Whereas, on June 4, 2019, the County entered into an agreement with the Grantee in the amount of \$1 million to fund a portion of the purchase and installation of the OREX ("OREX project"), attached hereto as Exhibit C; and

Whereas, the work commenced and \$500,000 of the \$1 million in funding was disbursed under the June 4, 2019 agreement; and

Whereas, due to the COVID-19 pandemic, the OREX project was suspended due to a drop in organic waste from the commercial sector, and that agreement expired; and

Whereas, the County wishes to continue to fund the remainder of its original commitment to the OREX project in the amount of \$500,000.

Now, therefore, the parties to this Agreement agree as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Anaergia Organics Extrusion Recovery System Budgetary Proposal & Process Description

Exhibit C—June 4, 2019 agreement

2. Grant

County hereby agrees to grant five hundred thousand dollars (\$500,000.00) to Grantee, which shall be transferred to Grantee in two payments according to the following schedule of milestones and anticipated dates:

1. \$250,000 upon operation of the OREX

2. \$250,000 upon the ninetieth (90th) day that the OREX is operational

3. Transfer of Funds

Grantee shall provide, at the time that this Agreement is executed, all information necessary for County to electronically transfer the Grant funds the Grantee.

4. Use of Grant Funds

Grantee shall use the Grant funds to pay invoiced costs associated with the purchase, installation, and maintenance of the OREX system, as set forth in Exhibit B. Grantee may also use Grant funds to reimburse these same costs paid by Grantee. Grant funds shall not be used for any other purpose.

5. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from February 22, 2022, through December 31, 2022.

6. Termination for Failure to Complete

In the event that Grantee abandons, discontinues, or otherwise does not complete the OREX project as set forth in Exhibit B, Grantee must provide written notice to County immediately. Grantee shall return all unexpended grant funds to County within 60 days, and the Agreement shall be terminated.

If the OREX project is abandoned or not completed within four (4) years of the date upon which the Grantee initiated the OREX project, Grantee shall return all unexpended grant funds to County within 60 days, and the Agreement shall be terminated.

7. Total OREX Project Cost

The total cost of the OREX project is approximately \$3,421,600. County and Grantee acknowledge the total cost of the OREX project will exceed the amount of Grant funds from the County. Grantee shall be responsible for funding the difference between the Grant funds available through this Agreement and the total cost of the OREX project.

8. Relationship of Parties

There is no new legal relationship between the County and Grantee created by this Agreement. County shall have no rights of ownership or interest in the OREX equipment to be installed, nor shall it be liable or responsible in any way for its installation, operation, or maintenance.

9. Hold Harmless

Grantee shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from the installation of the OREX system, the performance of any work or services required of Grantee under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Grantee or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Grantee's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(D) claims of damages resulting from the purchase and installation contract(s) to be executed by Grantee with third party supplies and/or installers.

The duty of Grantee to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

10. Assignability

Grantee shall not assign this Agreement or its right to receive Grant funds to a third party. Any such assignment without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

11. Insurance Requirements

Grantee represents and warrants that it shall require all third-party contractors providing equipment or installation services for the OREX project to have adequate insurance to cover damages, losses, claims, or suits involving work by each third-party contractor.

12. Compliance with Laws

In completing the OREX installation, Grantee shall comply with all applicable law, including public contracting laws, prevailing wage regulations, and other labor laws.

13. Publicity

Grantee will allow County to review and approve or reject any text of any proposed publicity concerning this Grant Agreement prior to its release. Notwithstanding the foregoing, Grantee may discuss this Grant Agreement at public meetings held by its boards, and shall respond to any Public Records Act requests, or similar records requests permitted by law, without notice to County.

14. Retention of Records; Right to Monitor and Audit

Grantee shall maintain all required records relating to this Agreement and the OREX project for three (3) years after County makes the final Grant funds transfer, and Grantee shall be subject to the examination and/or audit by County.

Grantee shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

Grantee agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Gordon Tong, Sustainability Program Manager
Address: SMC Office of Sustainability
455 County Center, 4th Floor, OS102
Redwood City, CA 94063
Telephone: (650) 363-4159
Email: gtong@smcgov.org

In the case of Grantee, to:

Name/Title: Joe La Mariana, Executive Director
Address: 610 Elm Street, Suite 202
San Carlos, CA 94070
Telephone: (650) 802-3505
Email: jlamariana@rethinkwaste.org

18. Electronic Signature

Both County and Grantee wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

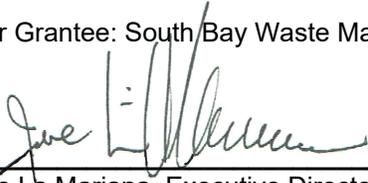
19. Payment of Permits/Licenses

Grantee bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Grantee's own expense prior to commencement of said work/services.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Grantee: South Bay Waste Management Authority



Joe La Mariana, Executive Director

January 31, 2022
Date

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

Exhibits A; B and C to this agreement are available online only at

www.rethinkwaste.org