



A Public Agency

# SHOREWAY OPERATIONS AND CONTRACT MANAGEMENT



## STAFF REPORT

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To: SBWMA Board Members  
From: Hilary Gans, Senior Contracts and Operations Manager  
Date: November 21, 2019 Board of Directors Meeting  
Subject: Organic-to-Energy Pilot Project Update

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### Recommendation:

This is an informational item and no Board action is required.

### Summary

On November 15, 2018 the SBWMA Board approved a contract with Anaergia for the manufacture and installation of Organics-to-Energy (O2E) Pilot project equipment. This project update report is intended to provide information to the Board on the project status and timing on project startup.

### O2E Pilot Project Status Update:

#### 1. Equipment Installation Milestone Dates:

- **May 2018:** OREX transferred from Recology SF to Shoreway.
- **July 2019:** City of San Carlos Building Department design approval.
- **September 2019:** Power-feed installation from existing transformer
- **November 2019:** Shredder and OREX installation complete
- **Nov.-Jan. 2020:** Polishing System Installation
- **February 2020:** System Commissioning (live operations)
- **March 2020:** System training and normal operations

#### 2. Current Status of Equipment Installation:

- Installation is 60% complete (three-of-four major pieces of equipment have been installed).
- Electrical connection is complete (the power feed from the transformer to the Anaergia panels have been installed and equipment has energized).
- Storage tanks for slurry are installed (piping between the tanks and the load-out has started).

#### 3. Silicon Valley Clean Water (SVCW):

- SVCW has installed all necessary equipment to receive 25-40% of the O2E Pilot tonnage.
- SVCW has initiated an Impact Analysis (\$250K study with CDM Engineering) to assess additional plant improvements required to increase to the Full-Scale O2E project. SVCW is also assessing its permit status needed to handle increased O2E material volumes in the future.

Biogas Utilization analysis will start in January to determine the best financial uses for BioCNG that would be generated from the AD process.

4. Other Wastewater Treatment Plant (WWTP) Supply/Feedstock Status:

- **East Bay Municipal Utility District (EBMUD)** – MOU signed in 2017, multiple senior-level meetings, working on a supply agreement, meeting/tour of Shoreway scheduled for December 18<sup>th</sup>.
- **Central Marin Sanitary (CMS)** – SBWMA visited CMS in July, interested in receiving materials, working on a supply agreement.
- **South San Francisco WWTP** – Toured Shoreway in August, interested in receiving materials, group tour of Shoreway scheduled for November 20<sup>th</sup>.
- **Sunnyvale WWTP** – discussion on feedstock agreement held on November 9<sup>th</sup>. Working on a joint grant submission to CalRecycle to fund organics processing infrastructure at WWTP.

PHOTOS OF O2E PILOT INSTALL



System in-feed / shredder and conveyors



Slurry storage tanks and loadout piping

## STAFF REPORT

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**To:** SBWMA Board Members  
**From:** Hilary Gans, Senior Contracts and Operations Manager  
**Date:** November 21, 2019 Board of Directors Meeting  
**Subject:** Resolution Approving Change Order #2 in the Amount of \$121,496.39 and Allocating an Additional \$103,504 for Future Change Orders on the Amended Public Project Agreement for Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center with Anaergia Technologies, LLC

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**Recommendation:**

Staff recommends that the Board of Directors approve Resolution 2019-55 Approving Change Order #2 to the Amended Public Project Agreement for Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center with Anaergia Technologies, LLC and allocating an additional \$103,504 for future change orders.

**Analysis**

SBWMA and Anaergia Technologies, LLC entered into a contract on November 15, 2018 for an Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center with an amount not to exceed \$2,250,000. The contract was amended on February 11, 2019, reducing the total contract price to \$1,950,000. In May 2019, a First Addendum was approved which did not affect the amount of the contract. Finally, on September 26, 2019, the Board approved contract Change Order #1 in the amount of \$300,000 for electrical work associated with this project.

Staff is now requesting approval of Change Order #2 in the amount of \$121,496.39. This change order addresses expenditures for the following four (4) items:

- \$20K in slurry load out design and concrete work for relocating the load location for tractor trailers;
- \$30K equipment service platform that was omitted from the original design but was determined to be needed due to equipment limitations at the transfer station.
- \$60K in tanks and piping that was the result of San Carlos Building Department structural review and concerns over the soft soil at Shoreway.
- \$11K conveyor and structural modifications to loadout. (See Attachment D.)

Staff anticipates that additional change orders will be needed during the life of this project. Given the infrequency of the Board's meetings, staff is requesting that the Board also approve additional funding in the amount of \$103,504 for this project.

## Fiscal Impact

By adopting the attached resolution, the Board would authorize the expenditure of an additional \$225,000 (i.e., \$121,496.39 for Change Order #2 and \$103,504 in funds to be applied to future change orders anticipated prior to final close out of the Organics-to-Energy Pilot Project contract with Anaergia), bringing the currently authorized total project costs to \$2,475,000.

Due to grant funds received or promised to this project, the project's funding balance remains in excess of the project spending to date, including the proposed amendment.

### Attachments:

Resolution 2019-55

Attachment A - Contract dated February 11, 2019

Attachment B - Resolution 2019-50 Approving Change Order #1

Attachment C - Worksheet for contract Change Order #2 in the amount of \$121,496.39



## RESOLUTION NO. 2019-55

### RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING CHANGE ORDER #2 IN THE AMOUNT OF \$121,496.39 AND ALLOCATING AN ADDITIONAL \$103,504 FOR FUTURE CHANGE ORDERS ON THE AMENDED PUBLIC PROJECT AGREEMENT FOR ORGANICS EXTRUSION RECOVERY SYSTEM PURCHASE AND INSTALLATION AT SHOREWAY ENVIRONMENTAL CENTER WITH ANAERGIA TECHNOLOGIES, LLC

**WHEREAS**, South Bayside Waste Management Authority (SBWMA) is completing the construction of the Organics-to-Energy pilot through the Amended Public Project Agreement for Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center (“Agreement”) with Anaergia Technologies, LLC;

**WHEREAS**, on September 26, 2019, the Board approved Change Order #1 to the Agreement;

**WHEREAS**, staff now requests approval of Change Order #2 in the amount of \$121,496.39;

**WHEREAS**, the project is only 60% complete and staff anticipates that further change orders may be required during the life of this project, staff seeks the allocation of an additional \$103,504 to be used to fund those change orders; and

**WHEREAS**, THE Board has reviewed this request and finds that the additional funding will allow for the project to progress in a timely manner between the Board’s meetings.

**NOW THEREFORE BE IT RESOLVED**, the SBWMA Board hereby authorizes a Resolution Approving Change Order #2 in the Amount of \$121,496.39 and Allocating an Additional \$103,504 for Future Change Orders on the Amended Public Project Agreement for Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center with Anaergia Technologies, LLC.

**PASSED AND ADOPTED** by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 21<sup>st</sup> of November 2019, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary District				

I HEREBY CERTIFY that the foregoing Resolution No. 2019-55 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on November 21, 2019.

ATTEST:

\_\_\_\_\_  
Jess E. (Jay) Benton, Chairperson of SBWMA

\_\_\_\_\_  
Cyndi Urman, Clerk of the Board

AMENDED PUBLIC PROJECT AGREEMENT  
FOR  
ORGANICS EXTRUSION RECOVERY SYSTEM PURCHASE AND INSTALLATION AT  
SHOREWAY ENVIRONMENTAL CENTER

This Amended Agreement is made and entered into as of the eleventh day of February, 2019 by and between the South Bayside Waste Management Authority ("SBWMA"), dba Rethink Waste hereinafter called "AUTHORITY" and Anaergia Technologies, LLC, hereinafter called "CONTRACTOR".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. On November 15, 2018, the Board authorized staff to enter into a contract with CONTRACTOR for an Organics Extrusion Recovery System Purchase and Installation at the Shoreway Environmental Center in an amount not to exceed Two Million Two Hundred Fifty Dollars and No Cents (\$2,250,00.00)
- B. A contract for this purchase and installation dated December 5, 2018 was fully executed by CONTRACTOR and AUTHORITY on December 14, 2018.
- C. Through an administrative error, the not to exceed amount in the contract executed on December 14, 2018 is incorrect and exceeds the total amount approved by the AUTHORITY's Board for this contract.
- D. CONTRACTOR and AUTHORITY now wish to correct this administrative error by executing this Amended Public Project Agreement for Organics Extrusion Recovery System Purchase and Installation at Shoreway Environmental Center.
- E. CONTRACTOR and AUTHORITY understand that the work contemplated under this Amended Agreement involves the relocation of equipment previously installed at a different location, which is currently owned by Recology Inc. ("Recology"), and whose costs were reimbursed by grant funds issued to Recology by California Department of Resources Recycling and Recovery ("CalRecycle") under a grant agreement ("Grant").
- F. CONTRACTOR AND AUTHORITY further understand that the Grant must be amended by Recology and CalRecycle to allow for the work contemplated under this Amended Agreement prior to work commencing, and therefore this Amended Agreement is contingent Recology and CalRecycle executing on such an amendment to the Grant.
- G. The Grant, which expires March 31, 2019, includes an unexpended balance of \$1.2 million in funds which may be used to reimburse Recology for the purchase and installation of a Dynamic Cyclone and Hydrocyclone to be used in conjunction with the previously installed equipment.

- H. This Amended Agreement contemplates the purchase and installation of the Dynamic Cyclone and Hydrocyclone, which is also contingent on an amendment to the Grant to allow such installation at AUTHORITY's site and to make such work eligible for reimbursement through the unexpended Grant funds.
- I. To access the Grant funds, the CONTRACTOR and AUTHORITY understand that CONTRACTOR will invoice Recology for the costs of the purchase and work associated with the installation of the Dynamic Cyclone and Hydrocyclone, and that those costs are included herein for informational purposes.
- J. Based upon these Recitals, the CONTRACTOR and AUTHORITY agree that the contract dated December 5, 2018 is hereby superseded in all regards by this Amended Agreement and the AUTHORITY hereby elects to engage the services of CONTRACTOR upon the terms and conditions as hereinafter set forth.

### TERMS

- 1. Services. The services to be performed by CONTRACTOR under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONTRACTOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

- 2. Term; Termination. The term of this Agreement shall commence upon the date, as confirmed by both parties hereto, that CalRecycle approves, through an amendment to the Grant or otherwise, the installation of the systems contemplated hereunder at AUTHORITY's site and reimbursement funding for installation of the Dynamic Cyclone and Hydrocyclone at the AUTHORITY's site (the "CalRecycle Funding"), and shall expire upon completion of performance of services hereunder by CONTRACTOR. Nothing herein contained shall be deemed a limitation upon the right of AUTHORITY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to AUTHORITY hereunder. However, the parties understand and agree that the commencement of the term of this Agreement, together with the respective performance of the parties hereunder, is contingent on the availability of CalRecycle Funding to the AUTHORITY for the services contemplated under this Agreement. In the event CalRecycle does not authorize the CalRecycle Funding for use at AUTHORITY's site by March 31, 2019, either party may terminate this Agreement upon notice to the other, without liability of each party to the other and without any continuing or surviving obligation of the parties to perform or have performed under this Agreement.

3. Compensation; Expenses; Payment. AUTHORITY shall compensate CONTRACTOR for all services performed by CONTRACTOR hereunder pursuant to the schedule marked Exhibit B hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum of One Million Nine Hundred and Fifty Thousand Dollars and No Cents (\$1,950,000.00) (exclusive of the Disk Screen Option) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by AUTHORITY's Manager (for contracts less than \$50,000) or AUTHORITY's Board (for contracts \$50,000 or more) evidenced by motion duly made and carried.

Compensation and reimbursement of costs and expenses hereunder shall be payable per the payment schedule in Exhibit B therefor by CONTRACTOR to AUTHORITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed.

4. Additional Services. In the event AUTHORITY desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be authorized in advance of the performance thereof by AUTHORITY's Manager (for contracts less than \$50,000) or AUTHORITY's Board (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. Records. CONTRACTOR shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONTRACTOR hereunder. Said records shall be available to AUTHORITY for review and copying during regular business hours at CONTRACTOR's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Reliance on Professional Skill of CONTRACTOR. CONTRACTOR represents that it has the necessary professional skills to perform the services required and the AUTHORITY shall rely on such skills of the CONTRACTOR to do and perform the work. In performing services hereunder CONTRACTOR shall adhere to the standards generally

prevailing for the performance of services similar to those to be performed by CONTRACTOR hereunder for the same type of project, at the same time and place under similar circumstances and conditions.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation and delivery to AUTHORITY, become the property of AUTHORITY. Contractor is not responsible for changes made in such deliverables by anyone other than CONTRACTOR or anyone else for whom CONTRACTOR is responsible, or for the use of such deliverables by the AUTHORITY or others for other than the intended use.
9. Relationship of Parties. It is understood that the relationship of CONTRACTOR to the AUTHORITY is that of an independent contractor and all persons working for or under the direction of CONTRACTOR are its agents or employees and not agents or employees of the AUTHORITY.
10. Schedule. CONTRACTOR shall adhere to the schedule set forth in Exhibit A; provided, that AUTHORITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONTRACTOR's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONTRACTOR's officers or employees.

CONTRACTOR acknowledges the importance to AUTHORITY of AUTHORITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONTRACTOR hereby agrees to defend, indemnify, and save harmless AUTHORITY, its boards, officers, employees, and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by AUTHORITY, its, boards, officers, employees, or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONTRACTOR, its officers, employees, subcontractors, or agents in the performance of any services or work pursuant to this Agreement.

AUTHORITY shall defend, indemnify, and save harmless CONTRACTOR, its officers, employees, agents and affiliates in like manner in connection with liability, loss, damage expense, and cost arising from the active negligence of the AUTHORITY.

The duty of CONTRACTOR to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall

be construed to require CONTRACTOR to indemnify AUTHORITY, its boards, officers, employees, and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONTRACTOR's and the AUTHORITY's respective responsibilities for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

12. Insurance. CONTRACTOR shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, and owned and non-owned and hired automobile liability insurance coverage relating to CONTRACTOR's services to be performed hereunder covering AUTHORITY's risks in form subject to the approval of the AUTHORITY Attorney and/or AUTHORITY's Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
All-Risk Course of Construction	Value of the completed work under this Agreement
Commercial General Liability	\$5,000,000 per occurrence and \$5,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$2,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONTRACTOR's vehicle usage in performing services hereunder)

CONTRACTOR agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by CONTRACTOR shall agree to be bound to CONTRACTOR and AUTHORITY in the same manner and to the same extent as CONTRACTOR is bound to AUTHORITY under this Agreement and its accompanying documents. Subcontractors shall further agree to include these same provisions with any sub-subcontractors. A copy of the indemnity and insurance provisions of this Agreement will be furnished to the Subcontractor upon request. CONTRACTOR shall require all subcontractors to provide a valid certificate of insurance and the required

endorsements included in the subcontract agreement and will provide proof of compliance to the AUTHORITY prior to commencement of any work by the subcontractor.

Concurrently with the execution of this Agreement, CONTRACTOR shall, on the Insurance Coverage form provided in Exhibit C or similar form, furnish AUTHORITY with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- (a) Precluding cancellation or **reduction in per occurrence limits** before the expiration of thirty (30) days (10 days for nonpayment) after AUTHORITY shall have received written notification of cancellation in coverage or **reduction in per occurrence limits** by first class mail;
- (b) Naming the AUTHORITY, its officers, boards, employees, and agents, as additional insureds; and
- (c) Providing that CONTRACTOR's insurance coverage shall be primary insurance with respect to AUTHORITY, its officers, boards, employees, and agents, and any insurance or self-insurance maintained by AUTHORITY for itself, its officers, boards, employees, or agents shall be in excess of CONTRACTOR's insurance and not contributory with it. CONTRACTOR and its insurer may not seek contribution from AUTHORITY's insurance or self-insurance.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of AUTHORITY, to the extent required by this Agreement, before the AUTHORITY's insurance or self-insurance may be called upon to protect AUTHORITY as a named Insured.

All self-insured retentions (SIR) must be reasonably acceptable to AUTHORITY and shall not reduce the limits of liability coverage. Policies containing and SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named CONTRACTOR/Named Insured or AUTHORITY.

AUTHORITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Any and all Subcontractors shall agree to be bound to CONTRACTOR and AUTHORITY in the same manner and to the same extent as CONTRACTOR is bound to AUTHORITY under this Agreement. Subcontractors shall further agree to include the same requirements and

provisions of this Agreement, including the indemnity and insurance requirements, in any agreement with sub-subcontractors to the extent that they apply to the scope of the sub-subcontractor's work. A copy of the indemnity and insurance provisions of this Agreement shall be furnished to any subcontractor upon request.

CONTRACTOR shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of three (3) years following completion of this project or service. In the event CONTRACTOR fails to obtain or maintain completed operations coverage as required by this Agreement, the AUTHORITY at its sole discretion may purchase the coverage required and the cost will be paid by CONTRACTOR.

13. WORKERS' COMPENSATION. CONTRACTOR certifies that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONTRACTOR certifies that it will comply with such provisions before commencing the performance of the work of this agreement.
14. PREVAILING WAGES. The services to be performed include public works within the meaning of Labor Code Sections 1720 through 1861, and CONTRACTOR must comply with state laws pertaining to prevailing wage and labor requirements, as more fully described in Exhibit E attached hereto and incorporated in this Agreement by reference.
15. NON-DISCRIMINATION. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONTRACTOR shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the AUTHORITY setting forth the provisions of this non-discrimination clause.
16. Notice. All notices required by this Agreement shall be given to the AUTHORITY and CONTRACTOR in writing, by first class mail, postage prepaid, addressed as follows:

AUTHORITY: Rethink Waste  
610 Elm Street, Suite 202  
San Carlos, CA 94070

Attention: Hilary Gans  
Senior Facilities and Contracts  
Manager

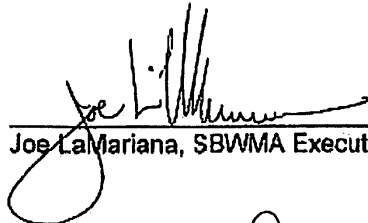
CONTRACTOR: Anaergia Technologies, LLC  
5780 Fleet Street, Suite 310  
Carlsbad, CA 92008  
760-436-8870  
Attention: Yaniv Scherson  
Managing Director  
And  
Hans Ouellet  
Vice President

17. Non-Assignment. This Agreement is not assignable either in whole or in part absent consent of the non-assigning party, such consent not to be unreasonably withheld, conditioned or delayed.
18. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
19. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
20. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses of litigation.
21. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.
22. Claims. Claims which CONTRACTOR wishes to assert against AUTHORITY shall be governed by the provisions of Exhibit F, attached hereto and by this reference incorporated herein.
23. Entire Agreement. This Agreement, including Exhibits A, B C, D, E, and F, comprises the entire Agreement.

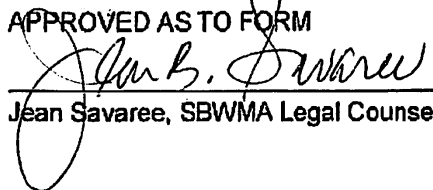
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

**SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY**

Dated: 2/12/19

  
\_\_\_\_\_  
Joe LaMariana, SBWMA Executive Director

Dated: 2/12/19

APPROVED AS TO FORM  
  
\_\_\_\_\_  
Jean Savaree, SBWMA Legal Counsel

**CONTRACTOR**

Dated: 2/11/19

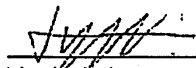
  
\_\_\_\_\_  
Yaniv Scherson  
Managing Director  
Anaergia Technologies, LLC

EXHIBIT A

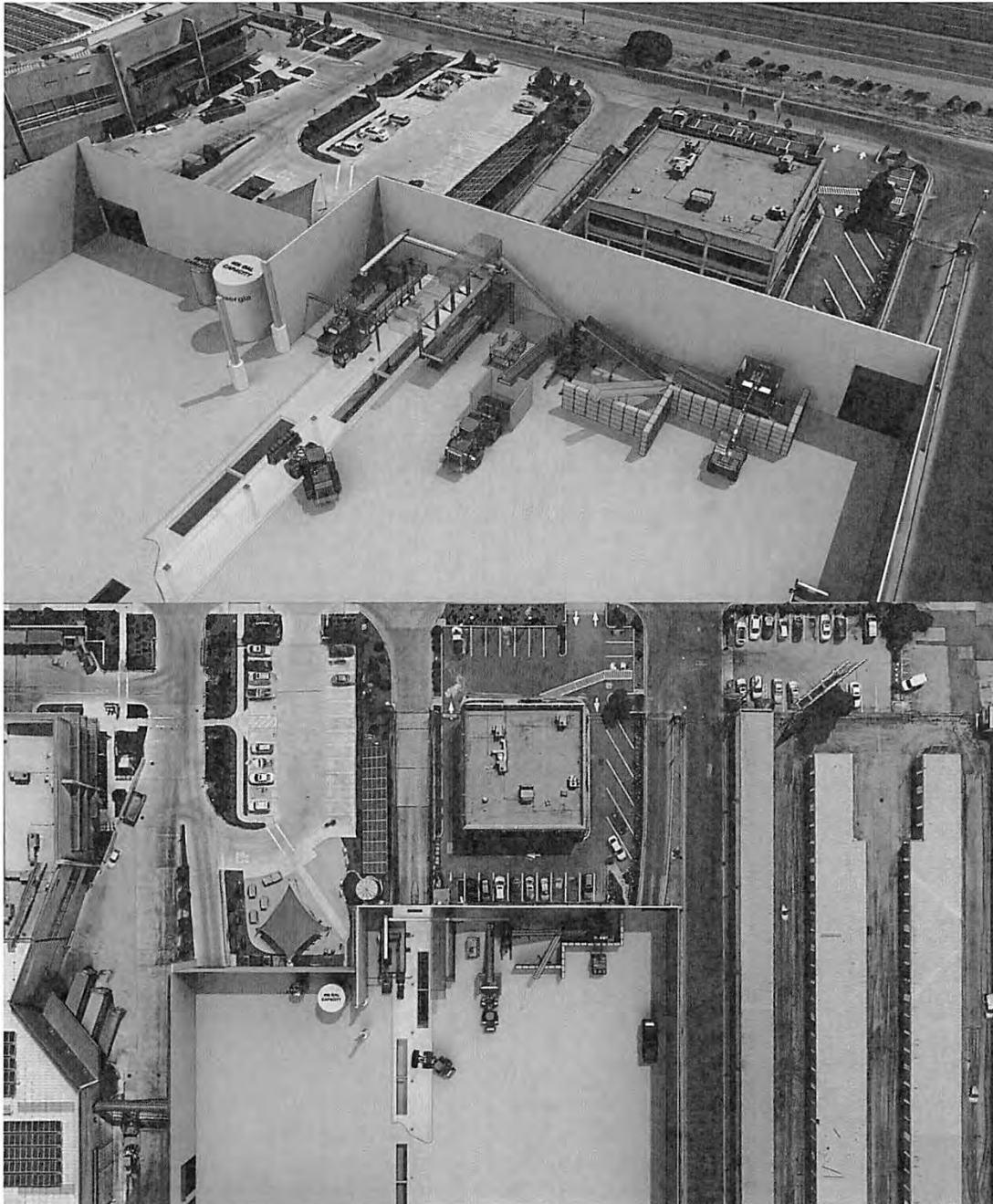
SCOPE OF WORK AND SCHEDULE  
FOR

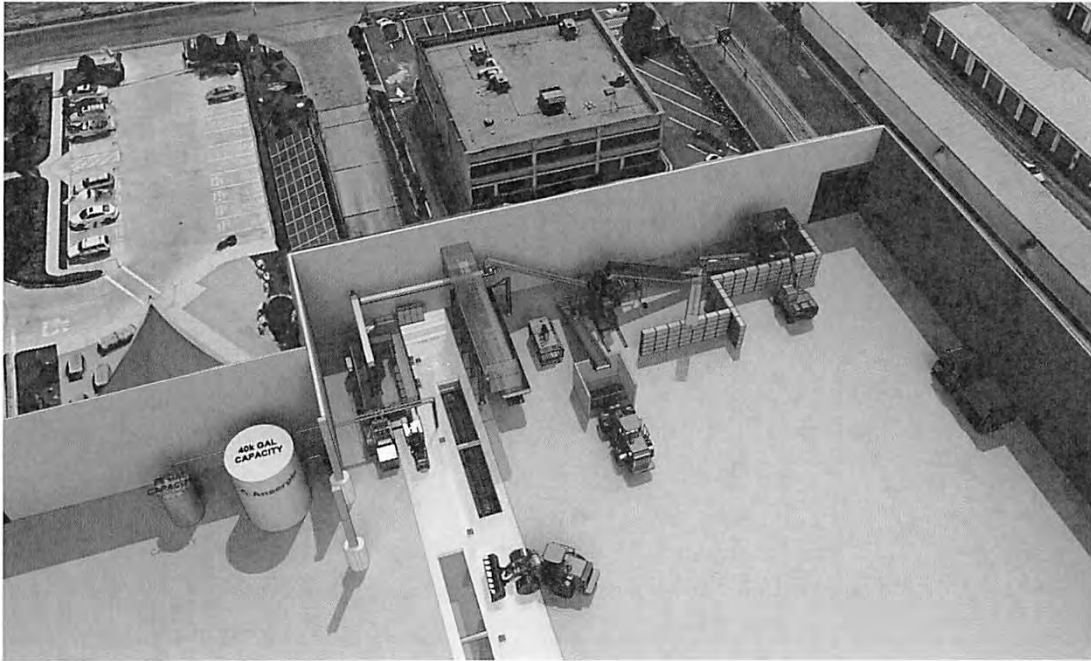
[Organics recycling from solid waste with Anaergia OREX and polishing at SBWMA]

**SBWMA - Move of OREX 500 from Recology & Polishing System for SSO / MW  
Processing**

<b>Scope of Supply</b>	<b>Quantity</b>
<b>Equipment</b>	
Anaergia Bag Opener & Hopper	1
Anaergia OREX Press / Model 500 (used from Recology)	1
Conveyors - Rubber Belt (used from Recology)	Lot
Conveyors - Shaftless Screw (used from Recology)	Lot
Dynamic Cyclone (plastic film removal)	1
Hydrocyclone (girt removal)	1
Organics Slurry and Dilution Water Storage Tanks	1
<b>Optional Add On Equipment</b>	
Disk Screen	1
<b>Steel Package</b>	
Bag Opener Service Walkway	0
OREX Press Service Walkway System	0
Piping for Organics Slurry and Dilution Water	Lot
Conveyor Belt & Screw Conveyors Supports	Lot
Transition Chutes between all supplied Anaergia Machinery	Lot
<b>Others for Anaergia Wet Line</b>	
Installation (Mechanical & Electrical)	1
Inspection (Mechanical Installation, Welding, Anchoring & Others)	0
Start-up and Commissioning	1
Freight and Loading	Lot
Engineering	1
California PE calculations, drawings & stamping	1
Project management	1
Mechanical Installation & Electrical Wiring Permits	0
OREX Hydraulic Oil for OREX 500	0

GENERAL SYSTEM LAYOUT  
(For illustration purposes only; See Scope of Supply for actual elements)





### PRELIMINARY PROJECT SCHEDULE

SBWMA Preliminary Project Schedule

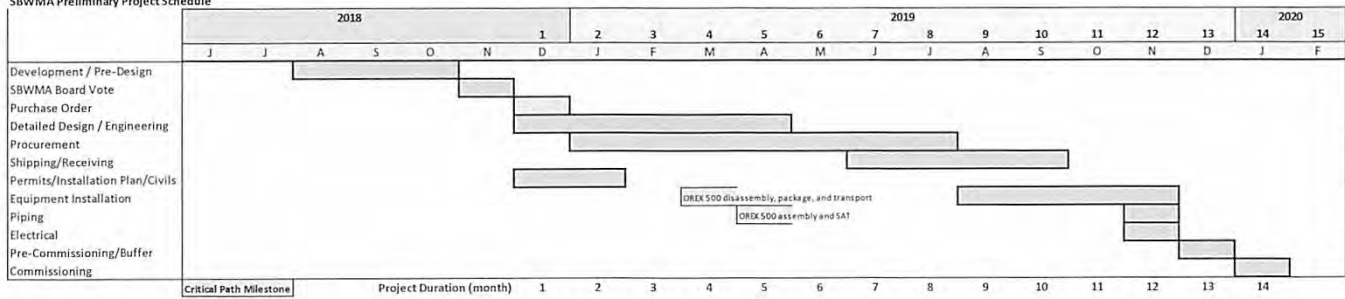


EXHIBIT B

CONTRACTOR'S FEE SCHEDULE

**SBWMA PAYMENT SCHEDULE**

<b>Number</b>	<b>Description</b>	<b>Amount</b>
1	NTP, Detailed Engineering Fabrication (Mach& Steel) Fabrication Manufacturing of Machinery, Steel Package & Controls	\$292,500
2	4 months after NTP of Fabrication / Manufacturing of Machinery, Steel Package & Controls	\$682,500
3	Commencement of Shipping to Job site San Carlos, CA	\$292,500
4	Completion of Mechanical Installation and Electrical Field Wiring	\$292,500
5	Completion of commissioning ("Substantial Completion")	\$292,500
6	Completion of Acceptance Test (per Exhibit G)	\$97,500
	<b>Total</b>	<b>\$1,950,000</b>

**EXCLUSIONS**

1. Civil work including all engineering, architectural, structural, electrical and others (anything related to building construction)
2. Drainage trench and sump pump design & supply
3. Power to building including switchgear to dispatch power to each electrical cabinets/panels.<sup>1</sup>
4. Power supply to all new electrical cabinets/panels (ex: Bag Opener, OREX, Dynamic Cyclone, Hydrocyclone)
5. Fire protection / sprinklers underneath the machinery (building will also need one so above the machinery)
6. Spare parts for any machinery
7. Local tax and CA state tax
8. Any mechanical and electrical permits
9. Demolition work associated with existing building
10. Extended Warranty
11. Letter of credit or bank guarantee
12. Air compressor for maintenance tool and clean up
13. Water for wash down / clean up
14. Air extraction system (filtration) & bio-filter & dust control system
15. Any mobile equipment from front end loader, skid steer, grapple crane, forklift, scissor lift, man-lift, crane, roll of truck, bin, roll of container and others
16. Climate Controlled Cabin / Enclosure for HPU of OREX 500 (ex: dust or noise)
17. Other items by SBWMA associated with facility operation (ex: fire extinguisher)

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<sup>1</sup>Preliminary electrical design estimated system full load amps to equal 1,350 amps. Project budgets \$300,000 as allowance for electrical infrastructure in SBWMA scope to provide feeders to Anaergia system provided panels. Detailed and optimized electrical design will be completed to determine final full load amps for system and will be provided to SBWMA to determine cost for SBWMA to provide electrical feeders and associated infrastructure to Anaergia supplied OREX System.

**ADDITIONAL PROJECT WORK TO BE PAID BY RECOLOGY FOR CALRECYCLE  
REIMBURSEMENT**

<b>Description</b>	<b>Amount</b>
Dynamic Cyclone (plastic film removal)	\$635,000
Hydrocyclone (girt removal)	\$565,000
<b>Total</b>	<b>\$1,200,000</b>

EXHIBIT C

INSURANCE FORMS

CONTRACTOR shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in Section 12 - INSURANCE of the Agreement on the attached form. No substitute form will be accepted.

**ATTACHED**

1. Insurance Coverage Form



# CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)  
12/04/2018

**BROKER**



**HUB International HKMB Limited**  
595 Bay Street, Ste 900  
Toronto, ON M5G 2E3  
PHONE: 416-597-0008 FAX: 416-597-2313

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

Company A	XL Catlin Specialty Insurance Company
Company B	
Company C	
Company D	
Company E	

**INSURED'S FULL NAME AND MAILING ADDRESS**  
Anargia Technologies, LLC  
5780 Fleet Street, Suite 310  
Carlsbad, CA 92008

**COVERAGES**

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated, not withstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS OF LIABILITY (Canadian dollars unless indicated otherwise)					
<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> PRODUCTS AND/OR COMPLETED OPERATIONS <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EMPLOYER'S LIABILITY <input type="checkbox"/> TENANT'S LEGAL LIABILITY <input type="checkbox"/> NON-OWNED AUTOMOBILE <input type="checkbox"/> HIRED AUTOMOBILE					EACH OCCURRENCE	\$				
					GENERAL AGGREGATE	\$				
					PRODUCTS - COMP/OP AGGREGATE	\$				
					PERSONAL INJURY	\$				
					EMPLOYER'S LIABILITY	\$				
					TENANT'S LEGAL LIABILITY	\$				
					NON-OWNED AUTOMOBILE	\$				
					HIRED AUTOMOBILE	\$				
					<b>AUTOMOBILE LIABILITY</b>					
					<input type="checkbox"/> DESCRIBED AUTOMOBILES <input type="checkbox"/> ALL OWNED AUTOMOBILES <input type="checkbox"/> LEASED AUTOMOBILES ** <input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/>					BODILY INJURY
PROPERTY DAMAGE COMBINED	\$									
BODILY INJURY (Per person)	\$									
BODILY INJURY (Per accident)	\$									
PROPERTY DAMAGE	\$									
<b>EXCESS LIABILITY</b> <input type="checkbox"/> UMBRELLA FORM <input checked="" type="checkbox"/> OTHER THAN UMBRELLA FORM	A	CA00008388L18A	06/30/2018	06/30/2019	EACH OCCURRENCE	\$ 1,000,000				
					AGGREGATE	\$ 1,000,000				
<b>OTHER (SPECIFY)</b>						\$				
						\$				
						\$				
						\$				
						\$				

**DESCRIPTION OF OPERATIONS/LOCATIONS/AUTOMOBILES/SPECIAL ITEMS/ ADDITIONAL INSURED**

The Excess Limit applies to Non-Owned Auto

**CERTIFICATE HOLDER**

South Bayside Waste Management Authority  
610 Elm Street, Suite 202  
San Carlos, CA 94070

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOUR TO MAIL 0 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*M. Timp*

Per: \_\_\_\_\_  
Page 1 of 1



**EXHIBIT D**

This **INSURANCE COVERAGE FORM** modifies or documents insurance provided under the following:

Named Insured: \_\_\_\_\_ Effective Work Date(s): \_\_\_\_\_

Description of Work/Locations/Vehicles: \_\_\_\_\_

**ADDITIONAL INSURED:** **South Bayside Waste Management Authority**  
**610 Elm Street, Suite 202, San Carlos, CA 94070**  
**Attention: \_\_\_\_\_**

**Contract Administrator**

<b>Endorsement and Certificates of Insurance Required</b>		
The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)		
	<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/> <b>General Liability:</b> (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/> <b>Auto Liability:</b> the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/> <b>Other:</b>		
<b>Certificates of Insurance Required (no endorsement needed) (Check all that apply)</b>		
	<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/> <b>Workers Compensation:</b> work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/> <b>Professional Liability:</b>		

**PRIMARY/NON-CONTRIBUTORY:** This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

**SEVERABILITY OF INTEREST:** The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

**PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS:** Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

**CANCELLATION NOTICE.** The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

**WAIVER OF SUBROGATION:** The insurer(s) named above agree to waive all rights of subrogation against the AUTHORITY, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the AUTHORITY.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

**SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER**

I, \_\_\_\_\_ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

\_\_\_\_\_  
**SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)**

**ORGANIZATION:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**TELEPHONE:** ( ) \_\_\_\_\_ **DATE ISSUED:** \_\_\_\_\_

## EXHIBIT E

### LABOR CODE REQUIREMENTS FOR PUBLIC WORKS PROJECTS

1. **Public Works Project/ Prevailing Wage.** The work to be performed under this Agreement is for "Public Works" within the meaning of Labor Code Sections 1720 to 1861. CONTRACTOR must therefore comply with state prevailing wage and labor law (California Labor Code Sections 1720 to 1780, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000) for work performed under this Agreement. CONTRACTOR's obligations under prevailing wage and labor compliance laws include, among other things, to: pay at least the applicable prevailing wage and travel and subsistence payments for public works activities performed under this Agreement; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law. Copies of the applicable prevailing wage rates are on file with the AUTHORITY's Project Manager, and shall be made available to any interested party upon request. CONTRACTOR shall ensure that the above requirements are included in all its contracts and any lower tier subcontracts for activities for the Project.
2. **Registration with Department of Industrial Relations.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR must be registered with the Department of Industrial Relations under Labor Code section 1725.5 when bidding and throughout performance of this agreement.
3. **Wage Rates.**
  - 3(A). It shall be mandatory upon CONTRACTOR and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that CONTRACTOR shall, as a penalty to AUTHORITY, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Agreement by CONTRACTOR or by any subcontractor; and CONTRACTOR agrees to comply with all provisions of Section 1775 of the Labor Code.
  - 3(B). The AUTHORITY will not recognize any claim for additional compensation because of the payment by the CONTRACTOR of any wage rate in excess of the prevailing wage rate set forth in the Agreement. The possibility of wage increases is one of the elements to be considered by the CONTRACTOR in determining its bid, and will not under any circumstances be considered as the basis of a claim against the AUTHORITY on the Agreement.
4. **Payroll Records.** The CONTRACTOR and each subcontractor must comply with Labor Code Section 1776 and all requirements of contractors stated therein for the maintenance, inspection and certification of payroll records. The CONTRACTOR and each subcontractor who fails to timely furnish payroll records or make the records available for inspection will forfeit to the AUTHORITY the penalty for non-compliance set forth in Labor Code Section 1776 for their respective failure.
5. **Discrimination.** The CONTRACTOR and each subcontractor must comply with the anti-discrimination requirements of Labor Code Section 1777.6.

## EXHIBIT F

### A. Required Provisions On Contract Claim Resolution

Any claim arising under this contract which the CONTRACTOR wishes to assert against the AUTHORITY shall be governed by California Public Contract Code Section 9204. Claims which do not exceed three hundred seventy-five thousand dollars (**\$375,000**) are also subject to the provisions of Article 1.5 of the California Public Contract Code (commencing with Section 20104). Pursuant to California Public Contracts Code Section 9204, claims shall be resolved as follows:

1.
  - (a) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.
  - (b) The claimant shall furnish reasonable documentation to support the claim, pursuant to Document 00 7200 (General Conditions), Article 12.
  - (c) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.
  - (d) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.
2.
  - (a) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.
  - (b) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.
  - (c) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.
  - (d) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.
  - (e) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

3. Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.
4. Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.
5. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

**B. Compliance With Americans With Disabilities Act**

1. CONTRACTOR acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. CONTRACTOR shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. CONTRACTOR agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of CONTRACTOR, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

**C. Compliance With IRCA**

1. CONTRACTOR acknowledges that CONTRACTOR, and all subcontractors hired by CONTRACTOR to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act (IRCA). CONTRACTOR is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by CONTRACTOR to perform services under this Agreement are in compliance with the IRCA. In addition, CONTRACTOR agrees to indemnify, defend and hold harmless Owner, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that CONTRACTOR's employees, or employees of any subcontractor hired by CONTRACTOR, are not authorized to work in the United States for CONTRACTOR or its subcontractor and/or any other claims based upon alleged IRCA violations committed by CONTRACTOR or CONTRACTOR's subcontractors.

## EXHIBIT G

### PERFORMANCE PROTOCOL AND TESTING OF WORK FOR ACCEPTANCE TEST

Performance testing ("Performance Testing") as described in this Exhibit shall be conducted by Contractor for the purpose of verifying that the installed Work meets the requirements set forth in this Agreement, (including all Exhibits thereto) which include applicable industry standards and design objectives. The Performance Testing will begin at Substantial Completion and continue during the Performance Testing Period, or as required by this Agreement. If Contractor meets the Performance Testing criteria set forth in this Exhibit, within this Performance Testing Period, the Final Payment shall be issued. If any of the Performance Guarantees are not met by the end of the Performance Testing Period, Contractor shall have the right to make modifications at Contractor's expense and retest during the Cure Period until passing such Performance Test. If after the Cure Period the Performance Test is not passed, the Final Payment shall not be made. Owner has discretion to issue Final Payment if Performance Test is not passed.

Capitalized terms used herein shall have the meanings set forth below. It is the intent that all definitions are consistent between the Agreement and Exhibits. Note that further definitions of waste categories are provided for reference, below. If the definition of any term in this Exhibit conflicts with a definition in the Agreement, the definition in the Agreement shall apply to the Agreement and the other Exhibits, while the definition in this Exhibit shall apply only to this Exhibit.

**DEFINITIONS.** Capitalized terms used herein shall have the meanings set forth below.

"Acceptance Testing" or "Acceptance Test" means Performance Testing or Performance Test.

"Commissioning" means a process which will take place after the Equipment has been installed and is ready to be operated to find and repair faults and obtain any required permits or authorizations. Commissioning includes Dry and Wet Commissioning.

"Commissioning Start Date" means the date when Commissioning begins and occurs after Mechanical Installation.

"Compostable and Food-Soiled Paper" means items that are made mostly of paper that could be reasonably composted and may be soiled by Food Waste. Examples include pulp paper egg cartons, unused pulp paper plant pots, molded paper packing materials, paper berry trays, paper take-out food containers, dirty molded paper plates, waxed paper, napkins, tissue, paper towels, fast food wrappers, food-soiled paper and moisture-soiled paper.

"Dry Commissioning" means the Commissioning of the Equipment without processing MSW or SSO.

"Dry Fraction" means high solids fraction, which excludes Wet Fraction, separated by operation of the Press.

"Equipment" means the components of the Pre-Processing Line, the Press, and the Post-Processing Line, and all associated wiring, controls, systems, and parts installed at Owner's Facility and necessary for the processing of SSO.

"Final Acceptance" means the date on which Owner signs the Final Acceptance Certificate, including after the Acceptance Test Period has successfully completed, and the Final Punch List has been completed.

"Food Waste" means food material resulting from the processing, storage, preparation, cooking, handling, or consumption of food. Food Waste includes but is not limited to: meat, fish and dairy waste; fruit, vegetable and grain waste; cooking fats, oils and greases.

“Green Waste” means any vegetative matter, which may result from normal yard and landscaping maintenance. Green Waste includes palm, yucca, cactus, grass clippings, leaves, pruning, weeds, brush, holiday trees and other forms of horticultural waste. In general, for the purposes of this Exhibit, Green Waste excludes stumps, tree trunks, roots, and large tree branches.

“Acceptance Test” means the Qualified Test Events (“QTE”) on the Processing Line, or the Equipment components comprised thereof, during the Acceptance Test Period, used to determine if the Work meets Performance Guarantees according to procedures and protocols described in detail in this Exhibit.

“Acceptance Test Period” means the period of time during which the Acceptance Test will be performed and completed, lasting no longer than ninety (90) days or as required and occurring after the Optimization Period (if applicable) or after Substantial Completion, whichever is later.

“Installation” or “Installed” means the Work is ready for Dry Commissioning.

“Non-Putrescible Waste” means materials greater than 4 mm in size that are inorganics, and includes plastics, glass, metals, textiles, household hazardous waste, and non-digestible inert materials such as stone, concrete, bone, ceramics, brick, or asphalt and including other man-made or naturally occurring inorganic materials.

“Optimization Period” is an optional period not to exceed sixty (60) days or mutually agreed upon by the Parties, wherein the Equipment is prepared for the Acceptance Test.

“Performance Guarantees” means the specific requirements listed in this Exhibit to be successfully completed: (a) to determine the issuance of the Final Payment; and (b) in order for Owner to accept the Work.

“Press” means the OREX 500.

“Process” or “Processed” means (subjected to) a process to transform SSO and MSW into Polished Product or Wet Fraction.

“Pre-Processing Equipment” means the Equipment that is comprised of a feed hopper, bag opener, and associated conveyors used to Process SSO and MSW and create feedstock for the Press.

“Processing Line” means the full extent of Equipment installed and used to Process SSO and MSW, comprised of the Pre-Processing Equipment, the Press, and the Post-Processing Equipment.

“Polished Product” means the cake, semi-solid, or slurry material created from processing Wet Fraction through the Post-Processing Equipment to remove physical contaminants and to be beneficially used by anaerobic digestion or other means.

“Post-Processing Equipment” means the Equipment used to remove physical contaminants, including man-made inorganic materials, from the Wet Fraction and to create a cake or slurry product for composting, anaerobic digestion, or other beneficial uses. The Post-Processing Equipment includes a dynamic cyclone and hydrocyclone.

“Putrescible Waste” means Food Waste, Green Waste, and Compostable and Food-Soiled Paper. Putrescible Wastes are not Non-Putrescible Wastes. For any material less than < 4 mm in size that is difficult to easily identifiable the putrescible fraction shall be assumed to be equal to 30% (The product of 50% total solids and 60% total volatile solids assumed composition).

“Qualified Test Event” or (“QTE”) means a continuous, timed testing event of the Processing Line, or sub component thereof, for the purposes of confirming the Performance Guarantees are met, conducted in conformance with procedures and protocols, including in this Exhibit.

“Qualified Waste”, or “QW”, is having a bulk density of greater than 1,000 pounds per cubic yard (lbs/cy) and a moisture content of greater than 50%.

“Residue” means any material remaining or removed from the Process that will be disposed.

“Bag Opener” means the device used to reduce the maximum size of SSO or MSW material to approximately twelve inches (12”) or less.

“TMECC” means the Test Methods for the Examination of Compost and Composting, June 2002 edition, or as amended or updated.

“Ton” means 2,000 pounds, wet or actual weight; if they differ, actual weight shall be used.

“Trained Personnel” means Owner’s designated representatives trained by Contractor for the operation of the Equipment.

“Uptime” means operating hours in which the Processing Line, and each component thereof, is actually running, as measured by an hour meter, and processing the design throughput of SSO, MSW and/or UF and/or Wet Fraction. Uptime excludes downtime in which the Processing Line is not running caused by operator error, scheduled downtime (ex: lunch breaks, rest breaks, and other similar breaks), scheduled maintenance and servicing, and jams or faults caused by processing non-SSO or non-MSW material such as bulky waste, propane tanks, white goods, and other such items which are not meant to be Processed on the Processing Line. Uptime is contingent on the operator correctly following the Operation and Maintenance Manual.

“Wet Commissioning” means Commissioning the Equipment by processing MSW or SSO.

“Wet Fraction” means the organic material extruded and generated by processing Undersize Fraction through the Press.

#### **A. Performance Guarantees for the Pre-Processing Equipment.**

Subject to QW being available for the Acceptance Test, the Pre-Processing Equipment shall meet the following Performance Guarantees during the Performance Testing Period. Performance Guarantees will be measured as an average of all QTEs performed during the Performance Testing Period.

1. **Throughput:** Process a minimum of fifty (15) tons per hour of QW. This will be measured from the time the first material reaches the inclined belt to the last material reaching that same point. This will be observed at the tail section transition from the Bag Opener discharge conveyor.
2. **QTEs:** Successfully complete two (2) four (4) hour QTEs during the Acceptance Test Period.
3. **Uptime:** A minimum of 85% Uptime availability for Processing during normal Facility hours (1 shift per day operation) during a (3) day period after the Commissioning Start Date.

#### **B. Performance Guarantees for the Press.**

The Press is sold “as-is”, no performance guarantees are provided for the Press.

#### **C. Performance Guarantees for Post-Processing Equipment.**

The Post-Processing Equipment shall be able to meet the following minimum Performance Guarantees:

1. **Throughput:** Process a minimum of eleven (11) tons per hour of Wet Fraction, as conveyed directly from operation of the Press.
2. **Capture Rate of Putrescible Waste:** Recover as Polished Product a minimum of 85% of the Putrescible Waste in the Wet Fraction conveyed to the Post-Processing Equipment.
3. **Polished Product Quality:** Polished Product produced by the Post-Processing Equipment will contain less than 0.5% total physical inert contaminants (on a dry weight basis, with a size

greater than 4 mm) defined as glass, hard plastics, film plastics, and metals, as measured using TMECC Method 0306, modified for wet sieving.

4. **QTEs:** Successfully complete two (2) four (4) hour QTEs during the Acceptance Test Period.
5. **Uptime:** A minimum of 85% Uptime availability for Processing during normal Facility hours (1 shift per day operation) during a (3) day period after the Commissioning Start Date.

#### **D. Performance Tests, General Conditions.**

This section outlines the general conditions of the Performance Testing for the Pre-Processing, Press, and Post-Processing Equipment. The Performance Testing shall be scheduled jointly by Owner and Contractor at the Owner's Facility and at mutually agreeable dates and times.

1. Owner's and Contractor's representative(s) must be present during all QTEs, (while actually being run) and may be present for portions or all of the Performance Testing Period.
2. Owner's Trained Personnel will operate the Equipment during the Performance Testing Periods.
3. Owner and Contractor representatives may both be present for all Work at the Facility, including but not limited to Performance Testing and/or analyses to determine if the Equipment meets Performance Guarantees. Contractor and Owner may mutually agree to make reasonable changes to any Performance Tests so as to correct or address matters raised by the either Party. If agreed, modified procedures will be applied in the performance of future Performance Tests.
4. Owner shall provide an adequate quantity of QW to conduct Performance Tests. Owner shall provide, at its expense, Facility utilities necessary to conduct Performance Tests.
5. During the Performance Testing Period and after receipt of the Operation and Maintenance Manual and training, Owner must operate the Equipment in accordance with Contractor's operating procedures as outlined in Contractor's Operation and Maintenance Manual, and as trained by Contractor.

#### **E. Press Acceptance Test Protocol.**

This Acceptance Test Protocol is deemed to be mutually developed by the Parties, and may be further developed by mutual agreement.

#### **F. Laboratory Requirements.**

All testing will be conducted by third party, independent laboratories unless otherwise mutually agreed by the Parties. The Parties shall designate one or more laboratory(ies) for testing and mutually develop protocols and other technical requirements for sampling and testing. Pre-approved laboratories include Soil Control Laboratories of Watsonville, California and Midwest Laboratories of Omaha, Nebraska. Laboratory testing is at Owner's expense.

### Acceptance Test Protocols:

This protocol describes the Acceptance Test methods to quantify the Performance Requirements in one QTE.

In these protocols, QW is processed by the by the Pre-Processing Equipment.

### Performance Guarantees for the Pre-Processing Equipment.

**Throughput:** Throughput will be measured from the time the first material reaches the inclined belt to the last material reaching that same point. This will be observed at the tail section transition from the Bag Opener discharge conveyor.

Step	Process	Notes
1	Feed Bag Opener a known weight of QW, with target weight of 20 tons, over a one hour period ensuring hopper is continuously surcharged.	$W_{sample}$
2	Measure the duration of the test equal to the time the first material reaches the inclined belt prior to the last material reaching that same point.	$T_{duration\ of\ test}$
4	Calculate the line throughput.	$Throughput = \frac{W_{sample}}{T_{duration\ of\ test}}$

### Bulk Density Determination

for Soil Amendments & Other Materials (compost, solid manures, biosolids, SSO, etc)

**Materials**

1. 5-gallon plastic buckets marked at the 4-gallon line
2. shovel
3. hand trowel
4. 100# scale

**Method**

1. Fill a 5-gallon plastic bucket with 4 gallons of water and mark the 4-gallon line around the inside and outside of the bucket with permanent marker (or buy a 5-gallon bucket with a 4-gallon line already marked on it)
2. Weigh the bucket; this is the tare weight
3. Collect a sample of the material to be measured either at the point at which it is loaded onto trucks or discharged from conveyors
4. Fill the bucket with approximately 4.5 gallons of the material
5. Drop the bucket onto the ground from a height of approximately 1 foot off the ground 5 times
6. If the material in the bucket drops below the 4 gallon line, add additional material to approximately 4.5 gallons, and repeat Step #5
7. Remove any residual more than 4 gallons (shave off excess material until exactly 4 gallons of material remains in the bucket)
8. Weigh the bucket holding the 4 gallons of material
9. Use the following to determine bulk density of the material

**Example**

tare (bucket) (#)	<b>A</b>	2.5 lbs	Input
bucket and material (#)	<b>B</b>	30.1 lbs	Input
weight of material	<b>(A – B) = C</b>	27.6 lbs	Calculated
bulk density of material (#/cy)	<b>C *</b>	1393 lbs/cy	Calculated
<b>50.48</b>			

**FINAL ACCEPTANCE CERTIFICATE**

**SIGNED UPON COMPLETION OF ACCEPTANCE TEST**

Contractor hereby certifies that it has completed the Performance Test described below subject to any exceptions thereto described herein. Additional sheets described herein may be attached.

1. The following Performance Test was completed: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Completed: \_\_\_\_\_

2. Exceptions (Respects in which Contractor states the applicable Performance Guarantee(s) was (were) not met:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Exceptions (Respects in which Owner states the applicable Performance Guarantee(s) was (were) not met, and what Owner requires to rectify the failure. (If Owner concurs with Contractor, leave blank or write "None.")

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONTRACTOR:**

Anaergia Technologies, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OWNER:**

**SOUTH BAYSIDE WASTE  
MANAGEMENT AUTHORITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**RESOLUTION NO. 2019-50**

**RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS  
RESOLUTION APPROVING CHANGE ORDER #1 TO CONTRACT WITH ANAERGIA FOR ELECTRICAL WORK ON ORGANICS-TO-ENERGY PILOT**

**WHEREAS**, the SBWMA contracted with Anaergia for the manufacture and installation of the Organic-to-Energy pilot equipment.

**WHEREAS**, the electrical power feed portion of the project was undefined at the time the Anaergia contract was signed and therefore included as a project allowance of \$300,000.

**WHEREAS**, Anaergia has agreed to complete the power feed scope of work for the originally budgeted allowance amount, and has agreed to include it within their current installation via a change order.


**NOW, THEREFORE BE IT RESOLVED** that the South Bayside Waste Management Authority hereby approves Resolution Approving Change Order #1 to Contract with Anaergia for Electrical Work on Organics to Energy Pilot.

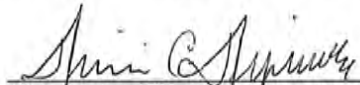
**PASSED AND ADOPTED** by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 26<sup>th</sup> day of September, 2019, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton				X	Menlo Park				X
Belmont	X				Redwood City	X			
Burlingame	X				San Carlos	X			
East Palo Alto				X	San Mateo	X			
Foster City				X	County of San Mateo	X			
Hillsborough	X				West Bay Sanitary Dist	X			

I HEREBY CERTIFY that the foregoing Resolution No. 2019-50 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on September 26, 2019.

ATTEST:

  
Cyndi Urman, Clerk of the Board

  
Alicia Aguirre, Vice Chairperson of SBWMA



**CHANGE ORDER PRICING SHEET**

CUSTOMER: SBWMA DATE: 14-Aug-2019

PROJECT: SBWMA - Organics Extrusion CURRENCY: US\$

CHANGE REQUEST (CR) NUMBER: CO #2

DESCRIPTION: Addition of platform, expansion of rejects belt, modification to loadout, and modified tank area

Anaergia Staff & External Engineering	Description	Hours	Hourly Rate	Total
Project Manager	Additional project management time for change orders, Design Review, contractor contracts and scheduling	50.0	\$150.00	\$7,500.00
Site Manager	Additional site management time for change orders	80.0	\$150.00	\$12,000.00
Commissioning Engineer	Additional commissioning time for change orders	40.0	\$125.00	\$5,000.00
		0.0	\$0.00	\$0.00
		0.0	\$0.00	\$0.00
<b>TOTAL - ANAERGIA STAFF</b>				<b>\$24,500.00</b>

External Labor, Materials & Logistics	Description	Qty	Unit Price	Total
Anaergia	Bag Green Service Platform	1.0	\$19,210.00	\$19,210.00
JRMA	Additional structural design for bag opener protection wall, change to wet fraction tank area, and revised loadout screw	1.0	\$23,100.00	\$23,100.00
JRMA	Structural design of new concrete pad	1.0	\$1,500.00	\$1,500.00
	Additional material includes additional mixers, minor supports, valves and instruments. Reference attached breakdown	0.5	\$48,021.51	\$24,010.76
Richard Price Automation	Additional PLC cabinet costs associated with additional equipment and instruments for (3) wet fraction tanks	1.0	\$5,680.51	\$5,680.51
Anaergia	Extension of existing reject belt conveyor including new belt	1.0	\$5,000.00	\$5,000.00
	Additional beams for new loadout support design	1.0	\$5,000.00	\$5,000.00
<b>TOTAL - EXT LABOR, MATERIALS &amp; LOGISTICS</b>				<b>\$79,551.27</b>

\*Split cost with SBWMA  
\*Split cost with SBWMA

Installation	Description	Qty	Unit Price	Total
Concrete pad	Form, installation of rebar, and pour new concrete pad	1.0	\$6,400.00	\$6,400.00
		0.0	\$0.00	\$0.00
		0.0	\$0.00	\$0.00
		0.0	\$0.00	\$0.00
<b>TOTAL - INSTALLATION LABOR</b>				<b>\$6,400.00</b>

SUB-TOTAL	\$110,451.27
Overhead 0% (warranty, legal, etc.)	\$0.00
Pricing Contingency 0%	\$0.00
Margin (10%)	\$11,045.13
<b>GRAND TOTAL</b>	<b>\$121,496.39</b>

APPROVED BY:  
Signature: \_\_\_\_\_  
Name: Hilary Gans  
Title: Senior Operations and Contracts Manager

## STAFF REPORT

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To: SBWMA Board Members  
From: Joe LaMariana, Executive Director  
Date: November 21, 2019 Board of Directors Meeting  
Subject: Resolution Approving a Part-Time, Exempt, Non-Benefitted (unless mandated by law),  
5-Year Limited-Term Position of Senior Facility Projects Engineer (unbudgeted)

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### Recommendation:

Staff recommends that the Board of Directors approve the resolution 2019-56 establishing a new part-time, exempt, non-benefitted, limited-term position of **Senior Facility Projects Engineer** for SBWMA, expiring no later than November 30, 2024.

### Summary and Analysis

The Executive Director has identified a critical need for temporary additional personnel to support the SBWMA's current capital project planning efforts occurring during the next three-to-five years. In the recent past, various board members have expressed strong support to expand SBWMA's senior engineering and project management capabilities on a limited, as-needed basis.

These capital projects are extensive, and Staff requires additional highly-skilled technical support to properly implement them in their proper sequence, and as budgeted. This additional position would be responsible for assisting the SBWMA's Senior Facilities and Contracts Manager (Hilary Gans) in the implementation of the below listed capital projects and ongoing routine Capital projects at Shoreway and others, as assigned:

1. MRF Upgrades Phase I & II (2019-2022)
2. O2E Pilot & Full Scale Phases (2019-2022)
3. Removal of Existing underground Fuel Storage Tanks (2021-2022)
4. Recology Alternative Fuel Site Construction (2020-2023)
5. Routine CIP maintenance projects
6. Possible construction of a new buyback center and HHW facility

The projects are currently staffed solely by Hilary Gans and this position is being requested in order to provide critical Staff support with these capital improvements. The approved salary range for the Senior Facility Projects Engineer is \$133,249-\$166,117. It is proposed that the part-time position's salary be set at 50% of this range (i.e., \$66,624-83,058.50).

This exempt position would be a new part-time, exempt, non-benefitted, limited-term employee, the person in this position would not be eligible for SBWMA's benefit programs, unless mandated by law. It is anticipated that this position could be filled by December 1, 2019 and would average 20 hours/week.

## Fiscal Impact

This position is not included in the FY19/20 budget, and would be part-time, exempt, non-benefitted unless mandated by law, and limited in term of no more than 5 years (terminating on November 30<sup>th</sup>, 2024). The proposed salary range for the part-time position would be \$66,624-83,058.50.

## Attachments:

Resolution 2019-56

Attachment A - Job Description: Senior Facilities Projects Engineer



## RESOLUTION NO. 2019-56

### RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS ESTABLISHING THE PART-TIME, EXEMPT, NON-BENEFITTED, LIMITED TERM POSITION OF SENIOR FACILITIES PROJECTS ENGINEER EXPIRING NO LATER THAN NOVEMBER 30, 2024

**WHEREAS**, South Bayside Waste Management Authority (SBWMA) will be completing a number of large-scale capital improvement projects over the next three-to-five years;

**WHEREAS**, the Executive Director has determined that the additional staffing is required in order to complete these critical path projects;

**WHEREAS**, the Executive Director has recommended to the Board that a part-time, exempt, non-benefitted, limited term position of **Senior Facilities Projects Engineer** be authorized to meet this staffing need;

**WHEREAS**, this additional position would be responsible for assisting the Senior Contracts and Operations Manager in the implementation of scheduled capital projects and ongoing routine projects at Shoreway.

**WHEREAS**, the Board has reviewed this request and concurs with the Executive Director that additional support of this nature is required to staff the capital improvements scheduled to be completed within the next three-to-five years.

**NOW THEREFORE BE IT RESOLVED**, the SBWMA Board hereby authorizes the establishment of a part-time, exempt, non-benefitted, 5-year limited term position of **Shoreway Projects Engineer**, with the job duties shown in Attachment 1, and establishes a salary range of \$66,624-83,058.50.

**PASSED AND ADOPTED** by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the November 21, 2019, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist				

I HEREBY CERTIFY that the foregoing Resolution No. 2019-56 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on November 21, 2019.

ATTEST:

\_\_\_\_\_  
Jess E. (Jay) Benton, Chairperson of SBWMA

\_\_\_\_\_  
Cyndi Urman, Clerk of the Board

**ATTACHMENT A**



**JOB DESCRIPTION:  
Senior Facilities Project Engineer**

**Position Reports to:** Senior Facilities & Contracts Manger

**Position Status:** Part-time, exempt, non-benefitted, limited-term employee.

**Position Range:** \$133,248-166,117 (annual)

**Limited Term:** Effective date: December 1, 2019; Expiration date: November 30, 2024

**Job Duties:**

Provide technical support to the SBWMA's Senior Facilities & Contracts Manager as assigned. Work duties will include, but are not limited to:

- Developing technical specifications for capital and routine projects at Shoreway.
- Developing engineers estimated cost for projects at Shoreway.
- Assistance in the project bidding and contractor selection process.
- Performing construction management services for projects at Shoreway.
- Supporting in the permitting and compliance aspects of new projects at Shoreway.
- Monitoring the operations and cost of operations at Shoreway.
- Waste sampling and characterization for projects at Shoreway and for the purposes of regulatory compliance.

**List of Pending Projects (known):**

1. MRF Upgrades Phase I & II (2019-2022)
2. O2E Pilot & Full-Scale Phases (2019-2022)
3. Removal of Existing underground Fuel Storage Tanks (2021-2022)
4. Recology Alternative Fuel Construction (2020-2023)
5. Routine CIP maintenance projects
6. Possible construction of a new buyback center and HHW facility

## STAFF REPORT

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**To:** SBWMA Board Members  
**From:** Joe LaMariana, Executive Director  
**Date:** November 21, 2019 Board of Directors Meeting  
**Subject:** Resolution Authorizing the Executive Director to Direct South Bay Recycling to Transport Organic Material Produced During the Organics-to-Energy Pilot Program to Various Processing Facilities

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### Recommendation:

Staff recommends that the Board of Directors approve resolution 2019-57 authorizing the Executive Director to direct South Bay Recycling to transport organic material produced during the Organics-to-Energy pilot program to various sites that will make use of the material.

### Summary and Analysis

Under the Agreement for Operation of the Shoreway Recycling and Disposal Center (Agreement), dated July 2009, South Bay Recycling (SBR) is responsible for operating the Shoreway Transfer Station and transporting all solid waste, recyclable materials, and organic materials from the Shoreway station to designated disposal sites and processing facilities. In anticipation of initiating the Organics-to-Energy pilot program, the SBWMA Board amended the Agreement in March 2019 to add the operation and maintenance of the Organics-to-Energy equipment to SBR's responsibilities at an additional cost not to exceed \$104,798 annually.

Staff anticipates that the installation of all equipment for the Organics-to-Energy pilot project will be completed by the end of February and is targeting March 1, 2020 as the start of the pilot. The organic material that the equipment will produce is intended to be used at wastewater treatment facilities and/or other facilities that can put the organic material to energy-producing or energy-saving uses. Staff has identified the following facilities as potentially desiring the material, however, other local material processing sites/partnerships might also be identified during this pilot time period:

- Silicon Valley Clean Water (Redwood City)
- City of Sunnyvale Wastewater Treatment (Sunnyvale)
- East Bay Municipal Utility District Wastewater Treatment (Oakland)
- South San Francisco Wastewater Treatment (SSF)

Section 12.13 of the Agreement allows the SBWMA to direct SBR "to modify the scope" of its services without amending the Agreement. Staff is seeking authority from the Board, through the attached resolution, to direct SBR to transport the material produced during the Organics-to-Energy pilot program to various processing facilities as directed by the SBWMA Executive Director.

## Fiscal Impact

While the Organics-to-Energy pilot project will not increase the amount of material to be transported by SBR, it will require SBR to transport material to additional processing facilities and/or disposal sites in tanker trailers which are different than its current fleet. As such, SBR informally informed SBWMA staff that it believes it would require an additional truck and staff to transport the material.

Per Section 12.13 of the Agreement, directions to modify the scope of service that result in increases to the cost of performing the services entitle SBR to an "equitable adjustment" in compensation pursuant to Section 7.11 of the Agreement. Upon adequate demonstration of additional costs incurred by SBR, it would be entitled to an adjustment in its compensation commensurate with the added costs. Staff's intention is to return to the Board to review and approve the compensation adjustment if and when SBR makes an application for such adjustment. However, by approving the attached resolution to direct the modified transportation scope, the SBWMA will ultimately be required to compensate SBR for its additional costs.

At this time, staff does not have a firm estimate of the potential costs to be incurred by SBR and passed through to the SBWMA. However, staff believes, based on the best available information, that an additional truck would cost approximately \$100,000 and that additional staffing for the added truck would cost approximately \$77,000 per year.

### Attachments:

Resolution 2019-57



## RESOLUTION NO. 2019-57

### RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS AUTHORIZING THE EXECUTIVE DIRECTOR TO DIRECT SOUTH BAY RECYCLING TO TRANSPORT ORGANIC MATERIAL PRODUCED DURING THE ORGANICS-TO-ENERGY PILOT PROGRAM TO VARIOUS PROCESSING FACILITIES

**WHEREAS**, South Bayside Waste Management Authority (SBWMA) contracts for the operation of its Shoreway Transfer Station and the transportation of the materials sorted at the Station to disposal sites and processing facilities;

**WHEREAS**, South Bay Recycling (SBR) currently operates the Shoreway Transfer Station and transports materials sorted at the Station pursuant to the Agreement for Operation of the Shoreway Recycling and Disposal Center (Agreement);

**WHEREAS**, the SBWMA anticipates initiating its Organics-to-Energy pilot project in January 2020, which will produce organic material treated for use in wastewater treatment and potentially other energy-producing or energy-saving applications;

**WHEREAS**, SBWMA and SBR previously executed an amendment to the Agreement to add operation of the Organics-to-Energy equipment to SBR's services;

**WHEREAS**, pursuant to Section 12.13 of the Agreement, the SBWMA wishes to direct SBR to modify its transportation services to transport the organic material treated by the Organics-to-Energy equipment to sites where it can be used.

**NOW THEREFORE BE IT RESOLVED**, the SBWMA Board hereby authorizes the Executive Director to designate additional disposal sites and processing facilities to which SBR shall transport the organic material produced by and during the Organics-to-Energy pilot project.

**PASSED AND ADOPTED** by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 21<sup>st</sup> day of November, 2019, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist				

I HEREBY CERTIFY that the foregoing Resolution No. 2019- 57 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on November 21, 2019.

ATTEST:

\_\_\_\_\_  
Jess E. (Jay) Benton, Chairperson of SBWMA

\_\_\_\_\_  
Cyndi Urman, Clerk of the Board

## STAFF REPORT

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**To:** SBWMA Board Members  
**From:** Joe LaMariana, Executive Director  
**Date:** November 21, 2019 Board of Directors Meeting  
**Subject:** Resolution Approving the Expenditure of Funds in an Amount Not to Exceed \$236,500 to Fund the Stormwater System Improvements at the Shoreway Recycling and Disposal Center to be Completed by South Bay Recycling

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**Recommendation:**

It is recommended that the Board review this staff report and determine whether or not to approve Resolution 2019-58 authorizing the expenditure of \$236,500 for improvements to the Shoreway Facility's stormwater collection system to be performed by South Bay Recycling at SBWMA's cost.

**Summary:**

The Shoreway Facility is subject to a Stormwater Discharge Permit (Permit) administered and enforced by the State and Regional Water Boards. Pursuant to the Shoreway Operations Agreement, South Bay Recycling (SBR) is obligated to operate the Shoreway Facility in compliance with that Permit.

Over the last three years, the measured levels of material entering the stormwater system at Shoreway have not met the targeted levels required by the Permit. As part of its obligations to comply with the Permit, SBR has made changes to its Best Management Practices (BMPs) to improve the measurables through operational adjustments. Unfortunately, these changes have not resulted in the Shoreway Facility meeting the Permit's targeted measurables.

After the second year of missed targets, SBR was required to consult with a Qualified Industrial Stormwater Practitioner (QISP) and submit an Action Plan to address the exceedances to the State Water Resources Control Board. SBR is currently working with QISP Matt Hillyard of Farallon Consulting, who submitted a Second Revised Level 2 ERA Action Plan to the Water Board on behalf of SBR in June 2019. That Action Plan included a proposed structural upgrade to the Shoreway Facility, that would have resulted in water being treated on-site, prior to its discharge into the stormwater system. Those proposed upgrades were estimated to cost \$1.2 million, and on that basis, \$1.2 million for stormwater system upgrades were included in the SBWMA budget approved by the Board in June 2019.

Subsequently, there has been disagreement as to whether SBR or SBWMA is obligated to pay for facility improvements to remain in compliance with the Stormwater Discharge Permit. While those discussions were on-going, SBR identified an alternative improvement project which would involve installation of new filters at collection drains and trenching to divert water that would otherwise run-off the Shoreway site. Most or all of the work involved in this alternative approach would also have been required for the \$1.2M project. The alternative project is estimated to cost \$215,000 and may resolve the exceedance issues without the additional expenditures. The proposal supplied by SBR is attached.

SBR has indicated that, in order to have the project completed in time to assess its success by the end of the rainy season, it must begin the project as soon as possible. However, SBR continues to maintain that it is not responsible for the costs of the project and insists that the costs be borne by SBWMA.

The attached resolution would authorize the expenditure of an amount not to exceed \$236,500 in project costs under protest. This will allow the project to go forward without delay and for SBWMA and SBR to continue discussions regarding this dispute.

**Fiscal Impact:**

By approving the attached resolution, the Board would be authorizing SBWMA to fund the alternative stormwater system improvements project at the Shoreway Facility as outlined in the attached proposal provided by SBR, in an amount not to exceed \$236,500 (which is the \$215,000 estimate plus a 10% contingency) without further Board authorization. No adjustment to the SBWMA's annual budget is required, as \$1.2 million is currently budgeted for stormwater improvements. Staff recommends that this payment be made under protest and that the Board also direct SBWMA staff to engage in further discussions with SBR to resolve this dispute.

**Attachments:**

Resolution 2019-58

Attachment A - Project proposal (spreadsheet) from SBR



## RESOLUTION NO. 2019-58

### RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$236,500 TO FUND STORMWATER SYSTEM IMPROVEMENTS AT THE SHOREWAY RECYCLING AND DISPOSAL CENTER TO BE COMPLETED BY SOUTH BAY RECYCLING

**WHEREAS**, the operation of the Shoreway Facility owned by SBWMA is subject to a Stormwater Discharge Permit ("Permit") administered and enforced by the State and Regional Water Boards;

**WHEREAS**, South Bay Recycling is obligated, pursuant to the Agreement for the Operation of the Shoreway Recycling and Disposal Center dated July 2009, to operate the Shoreway Facility in compliance with the Permit;

**WHEREAS**, over at least the last three years, the stormwater sampled at the Shoreway Facility has shown non-stormwater matter entering the stormwater system in excess of levels deemed acceptable under the Permit;

**WHEREAS**, SBR has attempted, but has been unsuccessful, in addressing the exceedance of non-stormwater material entering the stormwater system through operational improvements and other measures, as required by the Permit;

**WHEREAS**, SBR has consulted with a Qualified Industrial Stormwater Practitioner (QISP) at Farallon Consulting in creating an action plan to address the exceedances, as required by the Permit;

**WHEREAS**, SBR currently proposes certain upgrades to the stormwater collection system at the Shoreway Facility, as outlined in the attached proposal, and estimated to cost \$215,000.00;

**WHEREAS**, SBR has indicated its belief that SBWMA is obligated to pay for these stormwater collection system upgrades and proposes that the costs be reimbursed to SBR as they are incurred in completing the upgrades;

**WHEREAS**, SBWMA interprets the Agreement for the Operation of the Shoreway Recycling and Disposal Center to indicate that SBR is responsible for these project costs but wishes for the project to go forward to address the exceedances without further delay; and

**WHEREAS**, through the Annual Budget, the Board previously allocated \$1.2 million for stormwater upgrades.

**NOW, THEREFORE BE IT RESOLVED** that the Board of Directors of the South Bayside Waste Management Authority hereby:

1. Authorizes the expenditure of up to \$236,500 for stormwater collection system upgrades, as itemized in the attached proposal spreadsheet, which shall be paid to SBR as reimbursement upon accounting of such costs;

2. Authorizes such payment(s) for such stormwater collection system upgrades under protest and without conceding that the SBWMA is responsible for paying such costs under Agreement for the Operation of the Shoreway Recycling and Disposal Center, dated July 2009 and as amended, and further directs staff to engage in discussions with SBR to resolve this dispute.

**PASSED AND ADOPTED** by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on this 21st day of November, 2019, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist.				

I HEREBY CERTIFY that the foregoing Resolution No. 2019-58 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on November 21, 2019.

ATTEST:

\_\_\_\_\_  
Jess E (Jay) Benton, Chairperson of SBWMA

\_\_\_\_\_  
Cyndi Urman, Board Secretary

**Cost Summary For Alternate Phased Level 2 Approach  
South Bay Recycling  
San Carlos, California  
Farallon PN: 1628-005**

<b>Discharge Location</b>	<b>Drainage Area Description</b>	<b>Representative Industrial Activity</b>	<b>BMP Description</b>	<b>Estimated BMP Cost</b>
SW-1	Northern Main Access Road from Shoreway Road	• Truck / vehicle traffic	Plug two drain inlets	\$ 8,000.00
SW-2	Transfer Station Truck Exit; routed to sanitary sewer	• Transfer station traffic	Trench drain across driveway entrance to connect to existing SW-2 sump diverted to sanitary sewer	\$ 25,000.00
SW-3	Additional Drain Inlet Northern Main Access Road from Shoreway Road	• Truck / vehicle traffic	Kraken filter	\$ 5,000.00
SW-4	Employee Parking Lot Access Road from Shoreway Road, non-industrial discharge location	• Non-Industrial Employee Parking	TBD, potential inlet filter based on flow from City drain	\$ -
SW-5	Southern entrance Road from Shoreway Road	• Truck / vehicle traffic	Enhance/maintain bioswale	\$ 15,000.00
SW-5A		• Truck / vehicle traffic	Trench drain and sump to bioswale	\$ 25,000.00
			Kraken filter	\$ 5,000.00
SW-6	Northern Drain Inlet North Main Access Road	• Truck / vehicle traffic	Drain inlet improvements to separate Recology flow	\$ 15,000.00
SW-7	Drain Inlet Near Employee Parking lot, draining access road	• Truck / vehicle traffic	Kraken filter or Safe Drain plug	\$ 5,000.00
SW-8	Northern Drain Inlet North Main near Access Ramp	• Truck / vehicle traffic • Transfer station traffic (closed)	Kraken filter (complete)	\$ -
SW-9	Drain inlet south of fueling island, typically plugged	• Truck / vehicle traffic • Transfer trailer parking	Remain plugged	\$ -
SW-10	Drain inlet in the vehicle parking area	• Non-Industrial Employee Parking		\$ -
SW-10A	Drain inlet in the vehicle (wheel loader) parking area	• Non-Industrial Employee Parking		\$ -
SW-10B	Drain inlet northeast of scales	• Truck / vehicle traffic • MRF runoff	Completed to sewer	\$ -
SW-10C	Drain inlet south of scales	• Truck / vehicle traffic	Kraken filter	\$ 5,000.00
SW-10D	Trench drain near container storage	• Truck / vehicle traffic • MRF runoff (potential trackout)	Kraken filter	\$ 5,000.00
SW-10E	Manhole access point where the flows from the MRF loading dock stormwater treatment system, SW-10F piping, and SW-10G piping combine and discharge to the downstream stormwater system between the MRF and Transfer Station	• Truck / vehicle traffic • MRF loading area • PRC handling area	No change	\$ -
SW-10F	Bioswale outfall near access road and exit of the PRC Hazardous Waste Drop-off, drains to SW-10E	• PRC handling area	Bioswale maintenance included for SW-5. Drains to SW-10E	N/A
SW-10G	Bioswale outfall near PRC Hazardous Waste Drop-off, drains to SW-10E	• PRC handling area	Bioswale maintenance. Drains to SW-10E	\$ 2,000.00
SW-11	Eastern Outdoor Truck maintenance drain inlet	• Truck / vehicle traffic • Truck maintenance/washing	Kraken filter	\$ 5,000.00
SW-12	Not currently listed in SWPPP, northern portion of truck parking area.	• Truck / vehicle traffic • Truck washing • Transfer trailer parking • Fuel Island (Recology)	Options: Plug drain (\$0); Kraken filter (\$5K); or New drain to separate SBR flow with Kraken filter (\$20K)	\$ 20,000.00
SW-13	Not currently listed in SWPPP. Driveway south of Recology Admin bldg.	• Industrial traffic driveway.	Trench drain and divert/pump to sewer at ramp down to transfer station.	\$25,000
SW-14	Not currently listed in SWPPP. Driveway between MRF and Transfer Station.	• Industrial traffic driveway.	Trench drain and divert/pump to bioretention area	\$25,000
			Engineering design	\$25,000
			<b>Total:</b>	<b>\$ 215,000.00</b>

**Bold indicates sampling location.**

**Assumptions:**

Trench drain and pump across driveway entrances similar to \$25,000 estimate for SW-5 driveway.  
Kraken catch basin insert cost similar to highest individual quoted cost of \$5,300, but likely less for bulk discount.