AGREEMENT BETWEEN SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
AND Vendor Name FOR
PROFESSIONAL SERVICES FOR Project Title

This Agreement is made and entered into as of the _____ of _________, 2021 by and between the SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY ("AUTHORITY") and Vendor Name ("CONSULTANT").

RECITALS

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

A. That AUTHORITY desires to engage CONSULTANT to provide professional services related to the Project Title

B. That CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the services to the AUTHORITY and;

C. That the AUTHORITY has elected to engage the services of CONSULTANT upon the terms and conditions as hereinafter set forth.

1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, attached hereto and made a part hereof by this reference.

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

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

2. Term; Termination.
   (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONSULTANT.

(b) Notwithstanding the provisions of (a) above, either party may terminate this Agreement without cause by giving written notice not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, AUTHORITY shall compensate CONSULTANT for services rendered, and reimburse CONSULTANT for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination, consideration shall
be given both to completed work and work in process of completion. 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.

3. Schedule. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit “A”. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. AUTHORITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

4. Compensation; Expenses; Payment. AUTHORITY shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT’s hourly rates during the time of the performance of said services. A copy of CONSULTANT’s hourly rates for which services hereunder shall be performed are set forth in CONSULTANT’s fee schedule included in Exhibit A.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum \textit{NTE Amount in Dollars ($\ldots$)}, unless the performance of services and/or reimbursement of costs and expenses in excess of that amount have been approved in advance of performing such services or incurring such costs and expenses by AUTHORITY’s Executive Director (for contracts less than $50,000) or AUTHORITY 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 upon monthly billing therefor by CONSULTANT to AUTHORITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed as per Exhibit B.

5. 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 Executive Director (for contracts less than $50,000) or AUTHORITY 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.
6. **Records.** CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to AUTHORITY for review and copying during regular business hours at CONSULTANT’s place of business or as otherwise agreed upon by the parties.

7. **Authorization.** This Agreement becomes effective when endorsed by both parties in the space provided below.

8. **Reliance on Professional Skill of CONSULTANT.** CONSULTANT represents that it has the necessary professional skills to perform the services required and the AUTHORITY shall rely on such skills of the CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.

9. **Subcontracting.**

   - **Option A: No Subcontractor:** CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the executive director or designee.

   - **Option B: Subcontracts Authorized:** Notwithstanding Section 16 below, AUTHORITY agrees that subconsultants may be used to complete the Services. The subconsultants authorized by AUTHORITY to perform work on this Project are: [Fill in relevant information]

   CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. AUTHORITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to AUTHORITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the Executive Director or designee.

10. **Documents.** All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this Agreement, shall, upon preparation and delivery to AUTHORITY, become the property of AUTHORITY.

11. **Relationship of Parties.** It is understood that the relationship of CONSULTANT to the AUTHORITY is that of an independent contractor and all persons working for or under the direction of CONSULTANT are its agents or employees and not agents or employees of the AUTHORITY.

12. **Indemnity.** To the fullest extent allowed by law, CONSULTANT 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, and agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONSULTANT, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

The duty of CONSULTANT 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.

CONSULTANT’s responsibility 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.

13. Insurance. CONSULTANT shall acquire and maintain Workers’ Compensation, employer’s liability, commercial general liability, owned and non-owned and hired automobile liability, and professional liability insurance coverage relating to CONSULTANT’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:

<table>
<thead>
<tr>
<th>Insurance Category</th>
<th>Minimum Limits</th>
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<tbody>
<tr>
<td>Workers’ Compensation</td>
<td>statutory minimum</td>
</tr>
<tr>
<td>Employer’s Liability</td>
<td>$1,000,000 per accident for bodily injury or disease</td>
</tr>
<tr>
<td>Commercial General Liability</td>
<td>$1,000,000 per occurrence and $2,000,000 aggregate for bodily injury, personal injury and property damage</td>
</tr>
<tr>
<td>Automobile Liability</td>
<td>$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONSULTANT’s vehicle usage in performing services hereunder)</td>
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Professional Liability $1,000,000 per claim and aggregate

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the AUTHORITY as an Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of either (1) the minimum coverage and limits specified in this Agreement or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured.

CONSULTANT 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 CONSULTANT shall agree to be bound to CONSULTANT and AUTHORITY in the same manner and to the same extent as CONSULTANT 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. CONSULTANT 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, CONSULTANT shall, on the Insurance Coverage form provided in Exhibit C, or equivalent, 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 South Bayside Waste Management Authority, its officers, boards, employees, and agents, as additional insureds; and

(c) Providing that CONSULTANT’s insurance coverage shall be primary insurance with respect to South Bayside Waste Management Authority, its officers, boards, employees, and agents, and any

1 Note: Professional liability insurance coverage is not required if the CONSULTANT is not providing a service regulated by the state. (Examples of service providers regulated by the state are insurance agents, professional engineers, doctors, certified public accountants, lawyers, etc.) Please check and initial the following if professional liability is NOT required for this agreement. ☐ Recommended [Project Manager] ☐ Approved [Risk Manager]
insurance or self-insurance maintained by AUTHORITY for itself, its
officers, boards, employees, and agents shall be in excess of
CONSULTANT’s insurance and not contributory with it.
CONSULTANT 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 disclosed to AUTHORITY for
approval 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 CONSULTANT/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 CONSULTANT and
AUTHORITY in the same manner and to the same extent as CONSULTANT
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.

CONSULTANT shall maintain insurance as required by this Agreement to
the fullest amount allowed by law and shall maintain insurance for a
minimum of five (5) years following completion of this project or service. In
the event CONSULTANT 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
CONSULTANT.

14. WORKERS’ COMPENSATION. CONSULTANT 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 CONSULTANT certifies that it will comply with such provisions before
commencing the performance of the work of this agreement.
15. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

   AUTHORITY: RethinkWaste
               610 Elm Street, Suite 202
               San Carlos, CA 94070
               Attention: Grant Ligon, Management Analyst

   CONSULTANT: Firm Name
                Firm Contact
                Firm Address
                Firm Contact Email

17. Non-Assignment. This Agreement is not assignable either in whole or in part.

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 unsuccessful party will pay the reasonable attorney’s fees and expenses of litigation of the successful party.

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
22. **Conflict of Interest.** CONSULTANT may serve other clients, but none that would place CONSULTANT in a "conflict of interest" as that term is defined in State law.

23. **Entire Agreement.** This Agreement, including Exhibits A, B, and C, 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.

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SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY

Dated: _____________________  
Joe LaMariana, Executive Director  
IF LESS THAN $50K, OTHERWISE BOARD CHAIR

ATTEST:

Dated: _____________________  
Cyndi Urman, Board Secretary

APPROVED AS TO FORM

Dated: _____________________  
Jean Savaree, Legal Counsel

CONSULTANT

Dated: _____________________  
FIRM SIGNATORY
EXHIBIT A

SCOPE OF WORK, WORK SCHEDULE, AND FEE SCHEDULE FOR Project Title
EXHIBIT B

SAMPLE INVOICE
EXHIBIT C

INSURANCE FORMS

CONSULTANT 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
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 (SBWMA)
610 Elm Street Suite 202, San Carlos, CA 94070
Attention: ___________________________________________

Contract Administrator

### Endorsement and Certificates of Insurance Required
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)

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<tr>
<th>Insurer</th>
<th>Policy No.</th>
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- **General Liability:** (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased 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}

- **Auto Liability:** 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.

- **Other:**

### Certificates of Insurance Required (no endorsement needed)
(Check all that apply)

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- **Workers Compensation:** 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.

- **Professional Liability:**

**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 CITY, 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 CITY.

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:** ___________________________