

**ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY
EQUIPMENT GRANT AGREEMENT**

TERMS AND CONDITIONS

1. Grantee Obligations.

- 1.1 Grantee understands and agrees that grant funds must be used for purchase of equipment after the date the grant agreement is approved by Grantor and that it must use and may not sell, give away, or otherwise transfer the equipment for five years from the date of this agreement without the written approval of Grantor.
- 1.2 Grantee shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies. Grantee represents and warrants to Grantor that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Grantee to complete the Grant Project Description.
- 1.3 No relationship of employer and employee is created by this Agreement, it being understood that Grantee shall act hereunder as an independent contractor performing the work set forth in Exhibit A for its own and the general public benefit, not on behalf of Grantor and that the sole interest of Grantor is to ensure that grant funds are used in accordance with their intended purpose in accordance with the standards set forth in this Agreement.
- 1.4 Grantee has and shall maintain in effect statutory workers' compensation and employer's liability insurance as required by state law with a limit of at least \$1,000,000 per accident for bodily injury or disease. Neither Grantee nor its carrier shall be entitled to recover any costs, settlements, or expenses of workers' compensation claims arising out of this agreement.

2. Grantee Not an Agent.

Grantee shall have no authority, express or implied, to act on behalf of Grantor in any capacity whatsoever as an agent. Grantee shall have no authority, express or implied, pursuant to this Agreement to bind Grantor to any obligation whatsoever. Grantee shall not use Grantor materials including logos, flyers, etc. without written permission from Grantor.

3. Assignment and Subcontracts.

This grant award is personal in character and Grantee may not assign any right or obligation under this Agreement. Any attempted or purported assignment of any right or obligation under this Agreement shall be void and of no effect.

4. Retention of Records.

Until the expiration of five years after the final grant disbursement pursuant to this Agreement, Grantee shall make available to the Grantor or any party designated by the Grantor, upon written request by Grantor, this Agreement, and such books, documents and records of Grantee (and any books, documents, and records of any Grantee contractor(s)) that are necessary (i) to certify that Grantee is or was qualified to receive grant funds under this Agreement for the entire time that Grantee made use property acquired with such funds, (ii) to determine the reasonable cost of equipment acquired with grant funds under this Agreement, and (iii) to evaluate whether or not Grantee is performing or has performed as required under this Agreement.

5. Conflict of Interest.

Grantee warrants that, to the best of the Grantee's knowledge and belief, there are no relevant facts or circumstances which could give rise to a conflict of interest, or that the Grantee has already disclosed all such relevant information. Grantee agrees that, if an actual or potential conflict of interest is discovered after this Agreement is approved by Grantor, Grantee will make a full disclosure in writing to the Grantor and may be required to return funds granted by this Agreement.

6. Indemnification.

To the fullest extent permitted by law, Grantee shall indemnify, defend, and hold harmless Grantor, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs (including, without limitation, costs and fees of litigation) of any kind whatsoever without restriction or limitation, incurred in relation to, as a consequence of or arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part, to the performance of this Agreement. All obligations under this provision are to be paid by Grantee as they are incurred by the Grantor.

7. Drug-Free Workplace.

Grantee shall maintain a drug-free workplace. Neither Grantee nor Grantee's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code Section 812, including marijuana, heroin, cocaine, and amphetamines, at any facility, premises or work-site used in any manner in connection with implementing the grant project description pursuant to this Agreement. If Grantee or any employee of Grantee is convicted or pleads nolo contendere to a criminal drug statute violation occurring at such a facility, premises, or work-site, the Grantee, within five days thereafter, shall notify the Grantor.

8. Disputes.

The parties shall make a good faith effort to settle any dispute or claim arising under this Agreement. In any litigation concerning this Agreement each party shall bear its own costs and attorneys' fees. This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that state with venue in Alameda County. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with said laws, but the remainder of this Agreement shall be in full force and effect. Neither the acknowledgement of work or disbursement of grant funds pursuant to this Agreement shall constitute a waiver of any rights or obligations arising under this Agreement. The failure by the Grantor to enforce any of Grantee's obligations or to exercise Grantor's rights shall in no event be deemed a waiver of the right to do so thereafter.

9. Remedies.

Grantee's material breach of the terms of this Agreement may result in withholding of grant funds pending cure of the breach (if cure is permitted by the Grantor or otherwise allowed under this Agreement), whole or partial suspension or termination of this Agreement, recovery of funds paid to Grantee under this Agreement, withholding of future grant awards, or other legal or equitable remedies provided by law.

10. Notice of Nonrenewal.

Grantee understands and agrees that there is no representation, implication, or understanding that Grantee may be entitled to grant funds in the future or that the work or other activity funded by Grantor pursuant to this Agreement will be funded by the Grantor under a new agreement following expiration or termination of this Agreement.

11. Parties in Interest.

This Agreement is entered only for the benefit of the parties executing this Agreement and not for the benefit of any other individual, entity or person.

-End of Terms and Conditions-