**MEMORANDUM OF UNDERSTANDING**

**CBO AND AGENCY NAMES**

**COMPOST HUB PILOT PROJECT**

This Memorandum of Understanding (“MOU”) is entered into on \_\_\_\_\_\_\_\_\_\_\_ between the (AGENCY) and (CBO), referred to collectively as the “Parties.”

**Section I – Recitals**

WHEREAS, CBO has agreed to be a host site for a Compost Hub Pilot Project, referred to as a “Compost Hub;”

WHEREAS, CBO operates on a property in the City of \_\_\_\_\_\_\_\_\_\_\_ to grow produce, compost on-site and provide skill shares to local residents and are therefore well-positioned to operate a Compost Hub;

WHEREAS, the Parties wish to work together in a collaborative partnership to host, maintain, and further develop the Compost Hub to support Alameda County residents, referred to as “the public,” in acquiring and using compost, learning how to make and use compost, and facilitating opportunities for ongoing community development;

WHEREAS, AGENCY, has agreed to donate compost to the Compost Hub, for use by CBO and the public;

WHEREAS, the Parties acknowledge that regulations implementing SB 1383 require cities and counties in the state of California to procure compost and this is referred to as “SB 1383 procurement requirements”; and

WHEREAS, AGENCY expects to play a role in procuring and donating compost on behalf of its Member Agencies;

The Parties do agree as follows:

**Section II – Party Responsibilities:**

1. AGENCY
   1. Compost Donations. AGENCY agrees to order and schedule compost deliveries upon written request by CBO, up to the date of June 30th 2022, and at no cost to CBO. AGENCY will provide at least 20 cubic yards and not more than 40 cubic yards of compost per delivery. AGENCY will attempt to arrange for delivery within 10 business days of receiving the request; CBO understand and agree that deliveries will depend on available supply and cost which are expected to change over time and therefore cannot be guaranteed. The total cost of compost procured by AGENCY pursuant to this agreement will not exceed $3500. AGENCY will choose an available compost product that is suitable for distribution to the public, produced by a permitted facility, OMRI and/or CDFA certified for organic production and eligible to satisfy SB 1383 procurement requirements. AGENCY will share information regarding compost vendor, available compost lab reports, and recommendations for optimal compost use to CBO.
   2. Educational Resources and Tools. AGENCY agrees to make and deliver educational resources to the Compost Hub, including on-site education materials and take home materials to be distributed to the public at the Compost Hub. AGENCY also agrees to create a public survey toolset for CBO to help collect data regarding the public’s use of the Compost Hub.
   3. Technical Assistance and Training. AGENCY agrees to provide up to 30 hours of staff support for technical assistance, facilitating skill swaps regarding on-site composting and Compost Hub operations, and training staff and volunteers at CBO to assist with Compost Hub activities as requested by CBO.
2. CBO
   1. Organizational Use of Compost. CBO understands they may utilize the compost from the compost hub for their normal organizational operations, with no limitations pursuant to this agreement.
   2. Distribution to the Public. CBO agrees to give away the compost to the public at their facility in the City of \_\_\_\_\_\_\_\_\_\_\_. The public will do self-pickup, and none of the Parties will be responsible for delivering compost to the public or helping the public load compost into buckets, truck beds, or other containers; CBO agrees to ensure that the public is aware of this limitation.
   3. Public Access. CBO agrees to invite the public to access the Compost Hub from each of their facilities on set dates and times agreed upon by the Parties. Compost may also be given away in conjunction with other events and services provided by the Parties. Before access is given to individual members of the public, CBO will inform the public of any rules, regulations, or requirements in accordance with visiting CBO, including the signing of applicable waiver forms.
   4. Compost Pile Placement. CBO agrees to ensure compost delivery trucks have access to unload compost into a pile inside CBO’s facility. CBO will provide pathway access to the compost pile for the public from their respective facilities. The placement of the compost pile must be accessible to the public during open hours.
   5. Compliance with applicable laws. CBO shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including without limitation all provisions of the Occupational Safety and Health Act of 1979, Title VII of the Civil Rights Act of 1964, the Immigration Reform and Control Act of 1986 and all other applicable federal, state, and local laws and shall maintain in full force and effect all licenses, permits, qualifications and approvals of whatsoever nature which are legally required to operate the Compost Hub.
   6. Educational Resources. CBO agrees to collaboratively create educational signage that helps guide the public in navigating and utilizing the Compost Hub safely and may utilize the Compost Hub to support their own public educational activities.
   7. Documentation. CBO agrees to document information regarding the Compost Hub activities using tools provided by AGENCY. The following will be collected on a clipboard or using an online form: name or initials of resident; city of residence; date of arrival; if resident brought own bucket, borrowed a Compost Hub bucket, returned Compost Hub bucket, or used other method for taking home compost; questions about compost; and individual confirmation of accepting risk in participating and taking home compost from Compost Hub.
   8. Indemnification. CBO shall defend, indemnify, and hold harmless AGENCY, its directors, officers, agents, and employees from and against any and all loss, liability, expense, claims, suits and damages, including attorney’s fees arising out of or resulting from CBO, its associates’, employees’, contractors’, or other agents’ performance of this MOU with regard to activities of the Compost Hub.

CBO shall defend, indemnify, and hold harmless AGENCY, its directors, officers, agents, and employees from and against any and all loss, liability, expense, claims, suits and damages, including attorney’s fees arising out of or resulting from CBO, its associates’, employees’, contractors’, or other agents’ performance of this MOU with regard to activities of the Compost Hub.

* 1. Insurance. CBO shall procure and maintain insurance as required by the provisions set forth in Section III.
  2. Conflict of Interest. CBO warrants that, to the best of their knowledge and belief, there are no relevant facts or circumstances which could give rise to a conflict of interest, or that they have already disclosed all such relevant information. CBO shall not employ or contract with a person having such an interest in the performance of this Agreement.

CBO agrees that if an actual or potential conflict of interest is discovered the discovering party will make a full disclosure in writing to AGENCY. This disclosure shall include a description of actions which have been or will be taken, after consultation with AGENCY to avoid, mitigate, or neutralize the actual or potential conflict. Within 45 days, the discovering party shall have taken all necessary steps to avoid, mitigate, or neutralize the conflict of interest to the satisfaction of AGENCY.

No officer, member or employee of CBO shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof. CBO nor any member of their staff or their staff’s family shall serve on any AGENCY board or committee or hold any such position which either by rule, practice or action nominates, recommends, or supervises that Party's operations or authorizes funding or provision of supplies or services to that Party.

* 1. Drug Free Workplace. CBO shall maintain a drug-free workplace. CBO nor their 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 this Agreement. If any employee of CBO is convicted or pleads nolo contendere to a criminal drug statute violation occurring at such a facility, premises, or work-site, the employing Party, within five days thereafter, shall notify AGENCY.

1. All Parties
   1. Evaluation. The Parties agree to convene after the first 4 months from the opening of the Compost Hub, and every 6 months thereafter, to evaluate the Compost Hub operations, promotional efforts, and the public’s engagement based on the survey results. The evaluation will result in recommendations shared between all parties on improvements to the Compost Hub and the ongoing partnership between organizations.
   2. Outreach. The Parties agree to promote the Compost Hub through social media, e-news, email, community partners, and physical signage. Promotion can occur at a rate deemed appropriate by CBO based on the capacity of the site.
   3. Reusable Containers. The Parties agree to encourage the public to take compost using reusable containers such as 5 gallon buckets and burlap bags. The public will be encouraged to bring their own buckets or reusable containers from home, or to return borrowed buckets from the Compost Hub. Buckets belonging to the Compost Hub may be labeled or stenciled by the Parties to promote the Compost Hub and their organizations and encourage the public to return or donate reusable containers.
2. Except as a Party may specify in writing, no Party shall have the authority, express or implied, to act on behalf of any other Party in any capacity whatsoever as an agent. No Party has the authority, express or implied, pursuant to this agreement to bind any other Party to any obligation whatsoever.
3. The Agreement shall commence as of \_\_\_\_\_\_\_\_\_\_\_ and shall continue in effect through \_\_\_\_\_\_\_\_\_\_\_. This agreement may be extended as determined by both Parties.
4. Any of the Parties may terminate this agreement at any time upon 30 days advance notice to the other parties.
5. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by all Parties hereto. This MOU shall be binding upon each party, their legal representatives and successors.

**Section III – Insurance**

1. During the life of this agreement, CBO shall maintain the following minimum insurance:
2. Comprehensive general liability insurance: Insurance Services Office Form CG 00 01 covering CGL on an “occurrence" basis including products and completed operations, personal & advertising injury liability, blanket contractual liability, and broad-form property damage liability coverage. The combined single limit for bodily injury and property damage shall be at least $2,000,000. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
3. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), bodily injury and property damage liability insurance covering owned, non-owned (Code 9), rented, and hired (Code 8) cars. The combined single limit for bodily injury and property damage shall at least $1,000,000.
4. 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 CBO nor its carrier shall be entitled to recover any costs, settlements, or expenses of workers' compensation claims arising out of this agreement. The Employer's Liability policy shall be endorsed to waive any right of subrogation against the Agency, its employees or agents.
5. Professional Errors and Omissions Liability Insurance. The limit of liability shall be at least $1,000,000. If the policy is written on a “claims made” basis, CBO must maintain required coverage for a period of three years after the expiration of this agreement. CBO may satisfy this requirement by renewal of existing coverage or purchase of either prior acts or tail coverage applicable to said three-year period.

CBO shall submit to AGENCY certificates of insurance and endorsements for the policies listed above. All endorsements shall be signed by a person authorized by that insurer to bind coverage on its behalf. AGENCY has the right to require CBO insurer to provide complete, certified copies of all required insurance policies. CBO shall not cancel, assign, or change any policy of insurance required by this agreement or engage in any act or omission that will cause its insurer to cancel any insurance policy required by this agreement except after providing 30 days prior written notice to AGENCY. If an insurance policy required by this agreement is unilaterally cancelled or changed by the insurer, CBO shall immediately provide written notice to AGENCY and obtain substitute insurance meeting the requirements of this agreement. Nothing in this subsection relieves CBO of its obligation to maintain all insurance required by this MOU at all times during the term of the agreement.

1. As to all of the policies of insurance listed above, the following shall apply:
2. *Deductibles and Self Insured Retentions.* Any deductibles or self insured retentions must be declared to and approved by AGENCY. At the option of AGENCY, either (1) the insurer shall reduce or eliminate such deductibles or self insured retentions as respects AGENCY, its officers, officials and employees; or (2) CBO shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
3. *AGENCY as Additional Insured.* AGENCY, its officers, officials, employees, agents and volunteers are to be covered as insureds with the same coverage and limits available to the named insured regarding: liability arising out of activities performed by or on behalf of CBO; premises owned, occupied or used by CBO, or automobiles owned, leased, hired or borrowed by CBO. The coverage shall contain no special limitations on the scope of the protection afforded to AGENCY, its officers, officials, employees, agents or volunteers. Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured; the additional insured coverage and limits shall be (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; whichever is greater. For any claims related to this project, CBO’s insurance coverage shall be primary insurance as respects AGENCY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by AGENCY, its officers, officials, employees, or volunteers shall be excess of CBO’s insurance and shall not contribute with it. Coverage can be provided in the form of an endorsement to CBO‘s insurance (at least as broad as ISO Form CG 20 38 04), or as a separate owner’s policy, or on AGENCY own form. Additional insured coverage does not apply to errors and omissions insurance.
4. *Other Insurance Provisions.* The policies are to contain, or be endorsed to contain, the following provisions:
   * Any failure to comply with reporting provisions of the policies shall not affect coverage provided to AGENCY, its officers, officials, employees or volunteers.
   * The CBO’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. *Insurer Rating.* Insurance is to be placed with insurers with a Bests' rating of no less than A:VII.
6. *Umbrella/Excess 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 AGENCY (if agreed to in a written contract or agreement) before AGENCY’s own Insurance or self insurance shall be called upon to protect it as a named insured.
7. *Subcontractors.* CBO agrees to include in all 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 CBO shall agree to be bound to CBO and AGENCY in the same manner and to the same extent as CBO is bound to AGENCY under this agreement and CBO shall furnish a copy of this agreement’s insurance and indemnity provisions to all subcontractors. All subcontractors shall provide CBO with valid certificates of insurance and the required endorsements included in the agreement prior to commencement of any work and CBO will provide proof of compliance to AGENCY.
8. CBO hereby grants to AGENCY a waiver of any right to subrogation which any insurer of CBO may acquire against AGENCY by virtue of the payment of any loss under such insurance. CBO agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether AGENCY has received a waiver of subrogation endorsement from the insurer.
9. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this agreement, CBO shall immediately notify AGENCY by telephone. CBO shall promptly submit to AGENCY a written report, in such form as may be required by AGENCY of all accidents which occur in connection with this agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) names and address of CBO’s subcontractor, if any; (3) name and address of CBO’s liability insurance carrier; and (4) a detailed description of accident and whether any of AGENCY’s equipment, tools, materials or staff were involved. Failure to comply with this section shall constitute a material breach of this agreement.

***All Insurance modifications must be approved by* AGENCY’s *Contract Administrator***

***Insurance Modification Approved*** (Yes)\_\_ (No) \_\_ (No) Date Approved \_\_\_\_\_\_\_ (CAS Initials) \_\_

***Type of Insurance Waived or Reduced***:

Automotive Liability (Auto) \_\_\_\_, Worker’s Comp (W/C)\_\_\_\_, Professional Liability (P/L) \_\_\_\_\_

\_\_\_\_General Liability (G/L)

**Signatures**