

**CONTRACT #MA-299-19010875
FOR
EcoCHALLENGE EXHIBITS, EcoCHALLENGE BRAND
& STRATEGIC MARKETING PLAN**

This Contract **MA-299-19010875** for The EcoChallenge exhibits, EcoChallenge brand & Strategic Marketing Plan for OC Waste & Recycling (“**Contract**”) is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, through its OC Waste & Recycling Department (“**County**”) and **Discovery Science Center of Orange County dba Discovery Cube Orange County, a California Non Profit Corporation**, with a place of business at 2500 North Main Street, Santa Ana, CA 92705 (“**DISCOVERY**” or “**Contractor**”), which are sometimes individually referred to as “**Party**,” or collectively referred to as “**Parties**.”

RECITALS

WHEREAS, the California Integrated Waste Management Act of 1989 (Statutes of 1989, Chapter 1095, codified as California Public Resources Code Section 40000 et seq.) (the "Act") promotes the reduction, recycling, and reuse of solid waste generated in California to preserve landfill capacity, to conserve water, energy, and other natural resources, and to protect the state's environment; and

WHEREAS, the Act requires local agencies to development Integrated Waste Management Plans to include, among other requirements, an education and public information component; and

WHEREAS, the County has established its Integrated Waste Management Plan; and

WHEREAS, consistent with the public interest, the Act, and the County’s Integrated Waste Management Plan, the County desires to educate students, parents, and all citizens about the benefits of reducing solid waste and the impact created by improper disposal of solid waste and hazardous materials; and

WHEREAS, legislation such as SB 1374, SB 1016 and AB 341 place further requirements on municipalities to reach their 50% diversion goal and additional state mandated recycling requirements to remain in compliance; and

WHEREAS, on April 18, 2006 the Orange County Board of Supervisors created a market-driven solution to meet the increasing mandates that increased the use of privately owned recycling centers by approving an AB 939 surcharge for self-hauled waste disposed of at Orange County landfills; and

WHEREAS, the revenue from the surcharge is restricted to expenses that support the implementation of programs, such as outreach, education, marketing, branding and partnership activities, that increase waste diversion through recycling and waste diversion activities; and

WHEREAS, the County’s primary objective is to create strategic, purposeful and cost-effective programs that provide the greatest impact for the least cost; and

WHEREAS, DISCOVERY, is Orange County's largest provider of science education, providing science education at Discovery Science Center of Orange County through hands-on exhibits and has a renowned science program in the schools as well reaching over 500,000 visitors annually; and

WHEREAS, the County awarded a grant to DISCOVERY to design, build and host three educational exhibits, named the EcoChallenge, at Discovery Science Center of Orange County that focus on educating and improving the individual behaviors of Orange County residents related to the reduction of waste, the reuse of items and recycling; and

WHEREAS, the EcoChallenge exhibits opened on September 1, 2011 with the goal of improving

behaviors that shall:

- Reduce creation of waste through increasing the awareness of product packaging
- Identify different landfill, green and hazardous waste types
- Identify reusable and recyclable materials
- Understand how to properly dispose of each type of waste
- Understand the finite capacity of County landfills;

WHEREAS, the EcoChallenge exhibits and the proposed activities are strategic, purposeful and cost-effective and are intended to be the cornerstone of the County's recycling outreach and education for the ten (10) year duration of the EcoChallenge exhibits; and

WHEREAS, it is of mutual interest of the County and DISCOVERY to drive attendance to the EcoChallenge exhibits; and

WHEREAS, the County desires to use the exhibits and this contract to enhance its mission of educating the public to reduce waste and extend the life of its landfills, consistent with the Act and the public interest; and

WHEREAS, the County now desires to enter into this Contract with DISCOVERY to continue to provide the EcoChallenge brand & Strategic Marketing Plan for OC Waste & Recycling; and

WHEREAS, County issued Amendment Number One to amend Attachment A, Task 3: Composting Lab and corresponding attachments, Attachment A-1, New Exhibit Location at Discovery, and Attachment A-2, Timeline, with no change to the Contract monetary limit; and

WHEREAS, County issued Amendment Number Two to replace Attachment A, Task 2: Earth Day Sponsorship at Discovery Cube Orange County, in its entirety, effective upon execution of all necessary signatures, with no change to the Contract monetary limit; and

WHEREAS, County now desires to add language stating that unused funds are to be carried over from year to year; and

WHEREAS, County now desires to add Task 10: Organic Waste Lab (OWL) Exhibit Promotion to Attachment A, Scope of Work EcoChallenge exhibits, EcoChallenge Brand & Strategic Marketing Plan, effective upon Board of Supervisors approval and execution of all necessary signatures, with no change to the Contract monetary limit;

ARTICLES

NOW, THEREFORE, the Parties mutually agree as follows:

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. Entire Contract:** This Contract, including all attachments, when accepted by DISCOVERY, contains the entire Contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless

authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or designee. This Contract includes the following Attachments that are incorporated by this reference:

Attachment A Scope of Work

Attachment B Compensation, Payment Terms and Invoicing Instructions

- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. Taxes:** All prices shall be inclusive of any applicable sales tax.
- E. Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed Scope of Work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in accordance after services have been provided as more fully defined in Attachment B.
- G. Warranty:** DISCOVERY expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, DISCOVERY shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. DISCOVERY warrants that any materials as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. DISCOVERY agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees, costs and expenses.
- I. Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by DISCOVERY without

the express written consent of County. Any attempt by DISCOVERY to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

- J. Non-Discrimination:** In the performance of this Contract, DISCOVERY agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. DISCOVERY acknowledges that a violation of this provision shall subject DISCOVERY to penalties pursuant to Section 1741 of the California Labor Code.
- K. Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of DISCOVERY. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Independent Contractor:** DISCOVERY shall be considered an independent contractor and neither DISCOVERY, its employees, nor anyone working under DISCOVERY shall be considered an agent or an employee of County. Neither DISCOVERY, its employees nor anyone working under DISCOVERY shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. Performance:** DISCOVERY shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. DISCOVERY shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by DISCOVERY under this Contract. DISCOVERY shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, DISCOVERY shall be fully responsible for all work performed by subcontractors.
- O. Insurance Provisions:** Prior to the provision of services under this Contract, DISCOVERY agrees to purchase all required insurance at DISCOVERY's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. DISCOVERY agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of DISCOVERY pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for DISCOVERY.

DISCOVERY shall ensure that all subcontractors performing work on behalf of DISCOVERY pursuant to this Contract shall be covered under DISCOVERY's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for DISCOVERY. DISCOVERY shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from DISCOVERY under this Contract. It is the obligation of DISCOVERY to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must

be maintained by DISCOVERY through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of DISCOVERY's current audited financial report. If DISCOVERY's SIR is approved, DISCOVERY, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from DISCOVERY's, its agents, employee's or subcontractor's performance of this Contract, DISCOVERY shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) DISCOVERY's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and DISCOVERY's SIR provision shall be interpreted as though DISCOVERY was an insurer and the County was the insured.

If DISCOVERY fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by DISCOVERY shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange, its elected and appointed officials, officers, employees and agents* as Additional Insureds, or provide blanket coverage, which will state *As Required By Written Contract*.
- 2) A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad evidencing that DISCOVERY's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain the following endorsement, which shall accompany the Certificate of Insurance:

- 1) A waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN CONTRACT*.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

DISCOVERY shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates shall list Certificate Holder as County of Orange including the agency/department address listed on the solicitation. Insurance certificates and required endorsements shall be forwarded to the agency/department address.

If DISCOVERY fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require DISCOVERY to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify DISCOVERY in writing of changes in the insurance requirements. If DISCOVERY does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to DISCOVERY, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit DISCOVERY's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. Changes:** DISCOVERY shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** DISCOVERY agrees that if there is a change or transfer in ownership of DISCOVERY's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume DISCOVERY's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, DISCOVERY has the duty to notify the County in writing of any change in DISCOVERY's status with respect to name changes that do not require an assignment of the Contract. DISCOVERY is also obligated to notify the County in writing if DISCOVERY becomes a party to any litigation against the County, or a party to litigation that may reasonably affect DISCOVERY's performance under the Contract, as well as any potential conflicts of interest between DISCOVERY and County that may arise prior to or during the period of Contract performance. While DISCOVERY will be required to provide this information without prompting from the County any time there is a change in DISCOVERY's name, conflict of interest or litigation status, DISCOVERY must also provide an update to the County of its status in these areas whenever requested by the County.

DISCOVERY shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to DISCOVERY, this obligation shall apply to DISCOVERY's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. DISCOVERY's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- R. Force Majeure:** DISCOVERY shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided DISCOVERY gives written notice of the cause of the delay to County within 36 hours of the start of the delay and DISCOVERY avails himself of any available remedies.
- S. Confidentiality:** DISCOVERY agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by DISCOVERY and DISCOVERY's staff, agents and employees.
- T. Compliance with Laws:** DISCOVERY represents and warrants that services to be provided under this Contract shall fully comply, at DISCOVERY's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the

services at the time services are provided to and accepted by County. DISCOVERY acknowledges that County is relying on DISCOVERY to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, DISCOVERY agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

- U. **Freight:** Prior to the County's express acceptance of delivery of products, DISCOVERY assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each Party shall bear their own attorney's fees, costs and expenses.
- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Contract.
- Y. **Employee Eligibility Verification:** DISCOVERY warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. DISCOVERY shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. DISCOVERY shall retain all such documentation for all covered employees for the period prescribed by the law. DISCOVERY shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against DISCOVERY or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. **Indemnification:** DISCOVERY agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by DISCOVERY pursuant to this Contract. If judgment is entered against DISCOVERY and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, DISCOVERY and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

AA. Audits/Inspections: DISCOVERY agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of DISCOVERY for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify DISCOVERY's records before final payment is made each Contract year.

DISCOVERY agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. DISCOVERY agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, DISCOVERY agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract for a maximum of three years after the Contract term, unless a longer period of records retention is stipulated under this Contract or by law.

Should DISCOVERY cease to exist as a legal entity, DISCOVERY's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

BB. Contingency of Funds: DISCOVERY acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

CC. Expenditure Limit: DISCOVERY shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

ADDITIONAL TERMS AND CONDITIONS

- 1. Scope of Services:** This Contract, including Attachments, specify the contractual terms and conditions by which DISCOVERY shall provide the EcoChallenge brand & Strategic Marketing Plan for OC Waste & Recycling under a firm-fixed ceiling Contract, as set forth herein, and shall not exceed \$1,325,742 for a three-year term, with unused funds carried over from year to year.
- 2. Contract Term:** This Contract is for a three-year term, effective March 1, 2019 through February 28, 2022. Upon written agreement by both Parties, this Contract may be renewed for two (2) additional one-year terms in an amount not to exceed \$191,494, with unused funds to be carried over from year to year. The County does not have to give reason if it decides not to renew.
- 3. Adjustments-Scope of Work:** No adjustments made to the Scope of Work will be authorized without the prior written approval of the County assigned Deputy Purchasing Agent.
- 4. Precedence:** The Contract documents consist of this Contract and its Attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions

of the main body of this Contract, i.e., those provisions set forth in the Recitals and Articles of this Contract, and then the Attachments.

5. **Contractor's Expense:** DISCOVERY will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this contract. The County will not provide free parking for any service in the County Civic Center.
6. **Contractor's Records:** DISCOVERY shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by DISCOVERY in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.
7. **Ownership of Deliverables, Proprietary Rights, License of Rights:** The parties agree that County shall own all right, title and interest in and to any deliverables developed by DISCOVERY and delivered by DISCOVERY to County under this Contract and included Scope of Work, referred to herein as "Deliverables," this includes ownership of advertising collateral created for the County by DISCOVERY for purposes of promoting the EcoChallenge exhibit prior to this Contract.

For the current term of this Contract, as set forth herein, County shall own all right, title and interest in and to any deliverables developed by DISCOVERY to County under this contract, and its included Scope of Work as set forth on Attachment A, referred to herein as "Deliverables."

Notwithstanding the first two paragraphs above commencing this Paragraph 19, all proprietary information developed specifically for County by DISCOVERY in connect with, or resulting from, this Contract, herein referred to as "EcoChallenge Brand Elements", and including but not limited to the advertising collateral created for purposes of promoting the EcoChallenge exhibits prior to this Contract as referenced above, inventions, discoveries, improvements, trade name, trademark(s), character(s) logo(s), or other identification of the EcoChallenge, copyrights, patents, or software programs underlying the Deliverables, including DISCOVERY's underlying materials, software, or know-how, shall remain to be the sole and exclusive property of DISCOVERY, known herein as the "Proprietary Rights."

Without limiting the foregoing, DISCOVERY hereby grants County a perpetual, non-exclusive, royalty free license in and to the Proprietary Rights of all EcoChallenge Brand Elements, to use the Proprietary Rights in connection with the use of Deliverables under this Contract, including the advertising collateral created for the County prior to this Contract, as indicated above. Unless expressly restricted in writing, County shall have the right under this Contract to use the trade name, trademark(s), character(s), logo(s) and other identification of the EcoChallenge Brand.

Both DISCOVERY and County remain committed to using the brand in accordance with the provisions of the EcoChallenge Brand Style Guide ("Style Guide") and Cooperative Terms of Use Agreement. All uses of the EcoChallenge Brand Elements will continue to require prior approval of its use by DISCOVERY. DISCOVERY agrees to provide approvals in a timely manner not to exceed 3 business days of electronic receipt of requests. DISCOVERY will not unnecessarily withhold approval of the use of these materials unreasonably. DISCOVERY further agrees to provide monthly updates to County of all EcoChallenge Brand uses and intended uses that are known and that may also involve any potential third-party.

8. **Use of Discovery Science Center Brand:** For purposes of supporting the Call to Action integrated within the Strategic Marketing Plan, and without limiting the foregoing, DISCOVERY hereby grants County a perpetual, non-exclusive, royalty free limited use license in and to use the trade name and logo(s) of Discovery Science Center of Orange County ("DSC Brand") in connection

with the use of Deliverables under this contract only. Unless expressly restricted in writing, County shall have the right under this agreement to use the DSC Brand trade name and logo(s). All uses of the DSC Brand will require prior approval of its use by DISCOVERY. DISCOVERY agrees to provide approvals in a timely manner not to exceed 3 business days of electronic receipt of requests. DISCOVERY will not unnecessarily withhold approval of the use of these materials unreasonably.

9. **Data- Title to:** All materials, documents, data or information obtained from the County data files or any County medium furnished to DISCOVERY in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by DISCOVERY after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
10. **Contractor Personnel:** DISCOVERY warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to adequately perform the work under this Contract. DISCOVERY's employees assigned to this project have met character standards as demonstrated by background investigation and reference checks performed by DISCOVERY. Any additional review of personnel would be at County's expense.
11. **Contractor's Project Manager and Key Personnel:** DISCOVERY shall appoint a Project Manager to direct DISCOVERY's efforts in fulfilling DISCOVERY's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

DISCOVERY's Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines.

12. **County Project Manager:** The County shall appoint a Project Manager to act as liaison between the County and DISCOVERY during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with DISCOVERY.

The County's Project Manager shall have the right to require the removal and replacement of DISCOVERY's project manager and key personnel. The County's project manager shall notify DISCOVERY in writing of such action. DISCOVERY shall accomplish the removal within three (3) business days after written notice from the County's project manager. The County's project manager shall review and approve the appointment of the replacement for DISCOVERY's project manager and key personnel. Said approval shall not be unreasonably withheld. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of DISCOVERY's Project Manager from providing further services under the Contract.

13. **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by DISCOVERY without the express written consent of the County. Any attempt by DISCOVERY to subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that DISCOVERY is authorized by the County to subcontract, this Contract shall take precedence over the terms of the Contract between DISCOVERY and subcontractor, and shall incorporate by reference the terms of this Contract. The County shall look to DISCOVERY for performance and indemnification and not deal directly with any subcontractor. All work performed by a subcontractor must meet the approval of the County of Orange.

14. **Conditions Affecting Work:** DISCOVERY shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by

DISCOVERY to do so will not relieve DISCOVERY from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

15. Default: In case of default by DISCOVERY, the County of Orange may procure the goods and services from other sources. If the cost for those goods and services are higher than under the terms of the existing Contract, DISCOVERY shall be responsible for paying the County the difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due DISCOVERY. The price paid by the County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.

16. Disputes- Contract:

A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by DISCOVERY's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:

1. DISCOVERY shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
2. DISCOVERY's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, DISCOVERY shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which DISCOVERY believes the County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, DISCOVERY agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. DISCOVERY's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of DISCOVERY's demand, it shall be deemed a final decision adverse to DISCOVERY's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

17. Breach of Contract: The failure of either Party to comply with any of the provisions, covenants or conditions of this Contract shall constitute a material breach of this Contract. In such event either Party may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- A. Terminate the Contract immediately without penalty;
- B. Afford the other Party written notice of the breach and ten (10) calendar days or such

- shorter time that may be specified in this Contract within which to cure the breach;
- C. Discontinue payment to the Contactor for and during the period in which DISCOVERY is in breach; and
 - D. Offset against any monies billed by DISCOVERY but yet unpaid by the County those monies disallowed pursuant to the above.
- 18. Termination-Orderly:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
- 19. County of Orange Child Support Enforcement:** DISCOVERY certifies it is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Contract with the County of Orange. Failure to comply shall constitute a material breach of the Contract and failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.
- 20. Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA) listed below, except through the course of the Parties' Project Managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

COUNTY

County of Orange
OC Waste & Recycling HQ

300 N. Flower Street, Ste. 400
Santa Ana, CA 92703
Attn: Diane Dodson, Purchasing Manager
Phone: (714) 834-4145
Email: diane.dodson@ocwr.ocgov.com

CONTRACTOR

Discovery Science Center of Orange
County dba Discovery Cube Orange
County
2500 North Main Street
Santa Ana, CA 92705
Attn: Lloyd Joseph Adams
Email: Jadams@discoverycube.org

[Signature Page Follows]

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**DISCOVERY SCIENCE CENTER OF ORANGE COUNTY
DBA DISCOVERY CUBE ORANGE COUNTY*:**

Print Name Title

Signature Date

Print Name* Title*

Signature* Date*

* If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signee to bind the corporation.

County of Orange, a political subdivision of the State of California

Print Name Title

Signature Date

APPROVED AS TO FORM:

County Counsel

By _____

Paul Albarian, Senior Deputy

**ATTACHMENT A
SCOPE OF WORK
EcoCHALLENGE EXHIBITS, EcoCHALLENGE BRAND
& STRATEGIC MARKETING PLAN**

1. BACKGROUND

On April 18, 2006, the Board of Supervisors (Board) approved a surcharge on all self-hauled waste disposed at Orange County landfills to support AB 939 compliance of 50% waste diversion by the year 2000. At this time, the Board issued several Directives which required that all AB 939 self-haul surcharge programs and activities support our partner cities through the development of regional programs that benefit the County and all 34 cities. Regional education and outreach was identified as an important component of the Directives.

On April 28, 2009, the Board authorized an initial \$3.6 million contract and 10-year investment with Discovery Cube Orange County (DISCOVERY) for community education and outreach. This partnership produced the EcoChallenge brand and the EcoChallenge exhibits, a multi-disciplinary approach designed to change public behavior through hands-on education.

The EcoChallenge has become a well-branded, highly visible educational program that serves OC Waste & Recycling's (OCWR) regional leadership role. OCWR's exhibit sponsorship commitment continues through 2020.

Additional legislation, including AB 341 (Mandatory Commercial Recycling), AB 1826 (Mandatory Commercial Organics Recycling) and SB 1383 (Organics Diversion and Edible Food Recovery), combined with significant recycling market changes, signals the need for an expanded public education and outreach program to meet the County's diversion goals.

This marketing and education Contract allows DISCOVERY and OCWR to continue regional education, update messaging relative to current industry demands, continue to meet state and regional outreach compliance and to successfully support the EcoChallenge exhibit.

2. GOALS AND OBJECTIVES

This Contract between DISCOVERY and OCWR establishes a next-generation strategic marketing plan and educational exhibits with the following goal:

- Contribute to waste diversion by educating residents about how to recycle properly, how to properly manage organic waste and ways to repurpose gently-used shoes, clothing, home goods and other items, rather than sending them directly to the landfill.

This plan will achieve the following key objectives:

- Continue to support existing EcoChallenge exhibits and programs that fulfill CalRecycle's educational outreach requirements toward mandated recycling goals.
- Build a new Compost Lab exhibit that adds organic waste education and hands-on composting activities.
- Add metrics systems to all exhibits to provide improved data collection for measurement of program success and desired learning outcomes.

TASK 1: Discovery Cube Orange County Tickets and Membership

DISCOVERY shall provide annual administrative and promotional support of OCWR's use of free child admission coupons, free admission vouchers and family memberships to achieve its shared goals to promote the EcoChallenge exhibits and additional OCWR's educational events and activities.

DISCOVERY shall provide free child admission coupons secured at a \$4 discount per child ticket, for a final price of \$10.95 per ticket. Adult admission tickets (\$19.95 per ticket) and annual family memberships (\$124) will be charged at full ticket prices in quantities as requested per year by OCWR. The annual administrative fee shall include the graphic design support for barcode requests as described in Deliverable Task 1.2 below. DISCOVERY will guarantee the ticket prices to remain at the above stated rates for the duration of the Contract, even if posted ticket prices increase during the Contract term.

Deliverables:

- 1.1 Free child admission coupons, adult tickets and family memberships:** DISCOVERY shall honor up to 5,000 redeemed child admission vouchers, 625 adult admission vouchers and five family memberships annually through this partnership. OCWR will be billed on a quarterly basis for the actual number of "free child admission" vouchers redeemed by visitors to DISCOVERY. Annual family memberships and adult admission tickets requested by OCWR will be billed on an annual basis.
- 1.2 Barcode templates:** DISCOVERY shall provide unlimited, uniquely bar-coded "free child admission with paid adult admission" digital coupon templates annually, to be printed at OCWR's expense. Templates shall be provided in PDF and native file formats. Redeemed coupon quantities shall be reported monthly in accordance with Task 8, Contract Administration.

TASK 2: Earth Day/Month and Social Media Campaign

As part of the celebration of Earth Day, DISCOVERY will promote the new Organics Waste Lab (OWL) across DISCOVERY's social and email channels prior to DISCOVERY's "official" reopening. The goal is to raise awareness and visibility about the exhibit and highlight the benefits of composting with the audience and educational partners. The following plan will focus on generating excitement for Earth Day while highlighting the new OWL-exhibit and related content on DCC.org. Scope of activity and event deliverables will be discussed and mutually agreed upon annually, no less than three months in advance of the event or as deemed necessary by OCWR for strategic planning purposes.

- Design and publish biweekly social media posts aimed around Earth Day and the new OWL exhibit
- Facilitate (2) Instagram Live events with DISCOVERY and OCWR showing benefits of composting
- Boost Instagram & Facebook posts to increase engagement, reach and impressions
- Focus content on new OWL exhibit and importance of composting/recycling

Audience

- General fans/followers (parents of kids 6-13)
- DISCOVERY members (12K)
- Social Media Followers (10K)
- School and community educators/instructors/etc.

Key Dates

- April 19-23: National Environmental Education Week
- April 22: Earth Day

- May 2-5: National Compost Week

Assets

The following are the creative assets and materials that the DISCOVERY social team will use as part of the social campaign:

- **Logos**
 - OCWR and style guide
 - DISCOVERY and style guide
- **Photos/Videos**
 - DISCOVERY will capture hi-res photos of Organics Waste Lab exhibit
 - OCWR to supply DISCOVERY with any photos of virtual fieldtrips (OC Landfill IG: Prima Deshecha or Olinda Alpha) or other useful images
 - DISCOVERY will capture video of Organics Waste Lab exhibit and IG Live with partner
 - OCWR to supply DISCOVERY with any other video footage or b-roll
- **Talent**
 - Alan Piercy: DISCOVERY to secure Alan for Earth Day campaign/IG live
- **Print-Outs**
 - DISCOVERY to supply printable compost kits



Social Calendar

- @thediscoverycube (Instagram)
- @thediscoverycube (Facebook)
- @LikeOCcecochallenge (Facebook)
- @ocwaste (Instagram)

Pricing Table

Item	Cost Breakdown
Photographer Editing Services	\$ 750
Facebook Social Post Boosting	\$ 1,200
Instagram Social Post Boosting	\$1,200
Videographer	\$995
Video Editing	\$1,725
Paid Local Media	\$6,350
TOTAL COST	\$12,200
OCWR Contribution	\$10,000
DISCOVERY Contribution	\$2,220

Proposed Timeline

<p>Instagram</p>  <ul style="list-style-type: none"> • 4/19 - Post + Story #1 <ul style="list-style-type: none"> ○ Orange County Waste Lab Exhibit teaser video ○ Virtual walk-through of the exhibit ○ Boost post • 4/22 - Earth Day: Post + Story #2 <ul style="list-style-type: none"> ○ IG Live location-based takeover with Alan at OC Landfill ○ Repost to DISCOVERY accounts ○ Behind the scenes coverage • 5/4 - National Compost Week – Post + Story #3 <ul style="list-style-type: none"> ○ Printable Compost Kit ○ IG Live location-based with Alan at DISCOVERY ○ Boost post 	<p>Facebook</p>  <ul style="list-style-type: none"> • 4/19 - Post #1 <ul style="list-style-type: none"> ○ Orange County Waste Lab Exhibit teaser video ○ Virtual walk-through of the exhibit ○ Boost post • 4/22 - Earth Day: Post #2 <ul style="list-style-type: none"> ○ IG Live location-based takeover with Alan at OC Landfill ○ Repost to DISCOVERY accounts ○ Behind the scenes coverage • 5/4 - National Compost Week - Post #3 <ul style="list-style-type: none"> ○ Printable Compost Kit ○ IG Live location-based with Alan at DISCOVERY ○ Boost post
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***Schedules may be altered due to DISCOVERY’s reopening plans/events*

TASK 3: Composting Lab

A new two-part composting learning station will be co-located with the EcoChallenge exhibits and seamlessly integrated with the educational messaging of those exhibits. Located on the second floor of DISCOVERY, the new area will host a two-part Composting Lab where visitors will explore the science of organic waste, learn about the regulations coming for organic waste recycling, and practice composting in a fun and engaging way. The lab will be located partially indoors next to the Discovery Market and partially outdoors in a newly renovated 800-square-foot deck space (reference Attachment A-1, New Exhibit Location at DISCOVERY). Planning and final design shall begin per attached timeline (reference Attachment A-2, Timeline). OCWR will provide final approval of construction start date.

Deliverables:

3.1 Organic Waste Introduction Station: This stand-alone, 550-square-foot indoor station will host the introduction and behavior role modeling of organics composting. Located inside the building adjacent to the proposed Living Composting Lab in Task 3.2, will be two clear display shelves showcasing the various stages of organic waste decomposition, from day one to over 30 days out.

The exhibit area will feature five (5) interactive digital compost stations to learn about organics waste and composting. Two of the five digital compost stations will be mobile such that DISCOVERY will have the ability to take them to OCWR seasonal events or other facilities. DISCOVERY will work with OCWR in accordance with the proposed budget (reference Attachment A-3, Budgets and Payment Schedules), design, and timeline (reference Attachment A-2, Timelines). Planning, design and construction shall begin simultaneously with the outdoor Live Compost Lab (reference Task 4.2) or as mutually determined by OCWR and DISCOVERY.

Visitors will experiment on their own through the Digital Compost Stations to see if they can reproduce targeted soil types. By modeling and experimenting with different organic wastes

deposited in the digital compost bins, students will go through the Next Generation Science Standards process in their attempt to determine the most appropriate content needed to complete the newest EcoChallenge.

As part of this Task, DISCOVERY shall develop a name (i.e. World of Organic Waste or WOW units) and the non-industry terminology/jargon for teaching about organic waste at the stations.

Design and construction will include:

- Five (5) digital compost stations – each 3’x3’ with touch screen monitor. Two (2) units adapted as mobile units to support Task 4.1 events.
- Marquee area with lighting (five electrical outlets)
- Two (2) clear display shelves showcasing stages of decomposition (3 feet by 6 inches each)
- Digital compost station hardware and software, including hardware replacement in year three (if deemed necessary due to wear and tear) and software content upgrades
- Entrance graphic – DISCOVERY will develop content, messaging, artwork and signage describing what is organic waste, along with information on the upcoming state requirement, to be approved by OCWR
- Built-in metrics and evaluation method, to be approved by OCWR

3.2 Hands-On, Living Composting Lab: DISCOVERY shall design an audience participation, hands-on composting learning station. The outdoor, 200-square-foot deck space will host the working lab with real composting, plant growth, and worm zone. The lab will be a walk-through experience with daily scheduled programming (reference Task 4). When the lab is staffed, the hub of activity will be an interactive worm learning station hosted by DISCOVERY demonstrators.

DISCOVERY education and design teams will work with OCWR to develop final concept details, messaging and content per budget (reference Attachment A-3, Budgets and Payment Schedules) and proposed timeline (reference Attachment A-2, Timelines).

Development and construction of the exhibit area shall include:

- Two (2) glass doors for entry to lab area
- Two (2) working compost bins – 3’x3’ each, with built in hood vent to roof of Discovery Cube Orange County
- Two (2) raised garden beds - 5’x2’x6” each to house different plants in soils made by compost bins
- Compost containers and venting
- Organic waste specimen decomposition area
- Living plant wall – 6’x5’ with several potted plants, using compost created at the lab
- Worm zone
- Water hose bib and wash down
- Electrical, power and AV
- Lighting
- Graphic design and signage

Task 4: Programming

DISCOVERY shall provide programming for the Living Compost stations with the proposed timeline (reference Attachment A-2, Timelines) and budget (reference Attachment A-3, Budgets and Payment Schedules). An added feature of the Organic Waste Introduction stations is that two of the units will be mobile units to provide education at events outside of the Discovery Cube Orange County. This will allow

OCWR to make composting education available at open houses and other venues such as libraries or John Wayne Airport.

Deliverables:

- 4.1 Organic Waste Mobile Units:** DISCOVERY shall provide transportation of mobile units to and from (3) Orange County events or sites per year of OCWR'S choice.
- 4.2 Living Compost Lab:** DISCOVERY shall develop programming and schedule of planned activities for the lab. The intent of the hands-on lab programming is to engage visitors in the compost process and encourage repeat visits. Upon completion of the exhibit, the learning station programming will run on a regular schedule as mutually agreed. Proposed timeline and content will be a collaboration between DISCOVERY and OCWR, and will include:
 - Development of educational program, materials and schedule
 - Daily support by a demonstrator at the outdoor lab to engage visitors
 - Marketing support to promote scheduled events through DISCOVERY social media, website, email to DISCOVERY audiences, and through the Regional Recycling and Waste Reduction grant program
 - Metrics and evaluation methodology, quantifying number of participants, return visits and learning experience

Task 5: Maintenance

Due to the nature of the new exhibits, which includes natural elements, DISCOVERY shall be responsible for an annual exhibit refresh, to include maintenance of the equipment, signage and overall appearance to continue the intent and appeal of the new exhibits.

Deliverables:

- 5.1 Annual area refresh:** Once per year, DISCOVERY shall provide an area refresh to both the Introduction Stations and Living Compost Lab exhibits. Refresh includes area deep cleaning, learning stations touch-up paint, general exhibit repairs and software technical updates. OCWR staff will review and evaluate status of exhibits with DISCOVERY staff.
- 5.2 Traveling mobile unit maintenance:** DISCOVERY shall provide cleaning and shall repair/refresh mobile unit components including painting or touch up of visual appearance or replacement of any scratched, broken or non-working parts. OCWR staff will review and evaluate status of exhibits with DISCOVERY staff.
- 5.3 Consumable replacements:** DISCOVERY shall update, replenish and refresh all consumable components to the new exhibits, including soil, compost, worms and living plants on an as-needed basis.

Task 6: Ongoing Program Review, Evaluation and Development

DISCOVERY and OCWR will establish an ongoing program review and evaluation process to determine alignment with state mandates, success of exhibits and desired learning outcomes. Meeting discussions will determine adjusted programming or revised metrics implementation.

Deliverables:

- 6.1 Program Review Meetings:** DISCOVERY leadership and OCWR shall participate in a series of quarterly meetings designed to review programs in place, along with collected data to assess effectiveness. The meetings shall serve to ensure contract compliance as well as incorporate review of the evolving regulatory framework. Both agencies will focus on the potential modification of programming, or creation of new programming as may be necessary to refine the mutual approach to organic waste education at the DISCOVERY.
- 6.2 Meeting Summaries and Recommendations:** DISCOVERY will provide within one week of each meeting a recap and summary of recommendations and action items resulting from each meeting.

TASK 7: Eco Challenge Exhibit Surveys

In order to evaluate exhibit success and measure desired educational outcomes, DISCOVERY will add metrics systems to provide continuous, real-time data collection.

Deliverables:

- 7.1** DISCOVERY shall develop and implement an on-site surveying method to evaluate learning at the new Compost Lab activities and existing Eco Challenge Garage, Supermarket and Race-to-Recycle exhibits. Task includes:
- Development of survey questions and metrics
 - At regular intervals during the quarter and at different times of the day during the week site staff will conduct surveys to capture as wide a demographic of guests visiting the exhibits as possible
 - Any necessary survey hardware and/or software for quick, simplified data reporting
 - Monthly reporting of survey data per Task 8, Contract Administration

TASK 8: Contract Administration

DISCOVERY shall provide OCWR with both a monthly and an end-of-year annual report, to record attendance and evaluate exhibit/programming effectiveness.

Deliverables:

- 8.1 Tracking and learning metrics:** DISCOVERY shall provide a monthly report, due within 10 business days of the last day of each month, including the following data:
- Total bar-coded coupon and free admission ticket redemptions
 - Organic Waste Introduction Station and Live Compost Lab participant metrics (once exhibits are in operation)
 - Monthly survey response data (Task 7, EcoChallenge Exhibit Surveys)
 - Monthly reporting data of Eco Challenge Exhibit visitors
- 8.2 Annual Report:** DISCOVERY shall provide an annual report (Word Document) within 30 days of each year's end, which includes at minimum the following:
- Total annual bar-coded coupon and free admission ticket redemptions
 - Total new exhibit learning metrics (once incorporated into the EcoChallenge exhibits)
 - Total number of visitors and summary of participation to the existing EcoChallenge exhibits at DISCOVERY

- Summary of marketing support, events and any other additional promotion to OCWR audiences (such as through the grant program, events, media, etc.)
- Program recommendations for the ongoing term of the Contract

TASK 9: Unanticipated or Revised Tasks

The nature of OCWR's strategic marketing plan may result in unanticipated or revised tasks. OCWR and DISCOVERY may adjust and update Contract tasks within the existing budget, as mutually agreed.

Deliverables:

- 9.1** DISCOVERY shall submit for approval by OCWR the plan and costs associated with any unanticipated tasks and corresponding deliverables, including graphic design, printing services, and any other hard or soft costs.

Revised tasks and costs shall be mutually agreed upon and approved in writing, and will include a new or revised Scope of Work, budget and timeline as needed or discerned by OCWR. Any task that is unanticipated shall accompany the invoice as an authorized task approved in writing by OCWR.

TASK 10: Organic Waste Lab (OWL) Exhibit Promotion

A new organic waste learning station will be constructed as a new addition to the EcoChallenge exhibits and will seamlessly integrate new and existing educational messaging across all exhibits. A marketing and media relations outreach plan is required to update, highlight and promote the new exhibit throughout the life of the contract.

Deliverables:

10.1. Strategy

- a. DISCOVERY will plan and execute a marketing and media relations campaign each year to promote and highlight the new Organics Waste Lab (OWL) with approval from County Project Manager or Designee; DISCOVERY will create the following:
 - i. An annual marketing plan and timeline due first quarter of each calendar year for approval, including:
 1. A series of videos used for marketing (website, social media, public relations, etc.)
 2. An annual virtual tour of the OWL exhibit featuring a highlighted section of the exhibit/programming
 3. An annual "Open House" styled event
 4. An annual media relations outreach schedule, specific to OWL, including identification of additional time frames in which the OWL exhibit can be celebrated and promoted both in-person and online/virtually throughout the year
 5. An advertising schedule, and a social media outreach schedule

10.2. Events

- a. Promotion of the OWL exhibit will be timed with, but not limited to the following:
 - i. International Compost Awareness Week (May)
 - ii. National Gardening Week (June)

- iii. National Earthworm Day (October)
- iv. America Recycles Day (November)

10.3. Assets

a. The following are the creative assets and materials that DISCOVERY will leverage:

- i. Brand Logos
 - 1. OCWR and style guide
- ii. OWL Exhibit at DISCOVERY
 - 1. OWL Exhibit itself will be used for video, video background and location-based captures
 - 2. Existing EcoChallenge Exhibit
- iii. Photos/Videos
 - 1. OWL photos and videos
 - 2. Instagram Live video(s) (created as part of Earth Day activities)
 - a. OCWR will supply DISCOVERY with any additional videos and photos for campaign use
- iv. Talent
 - 1. OCWR Designee/Spokesperson(s)
 - 2. OC Supervisor – First District
 - 3. Designated Guest or Employee of DISCOVERY (educators or exhibit specialists)

10.4. Campaign Execution

The following will be created annually in support of each year's marketing campaign:

- a. Video Creation: The DISCOVERY team shall produce three (3) videos, tailored specifically for the OWL Exhibit, for use during each campaign year, to be used for website content, social media postings, media outreach, onsite events (i.e. Open House) and shared with OCWR Stakeholders. Content capture shall be used, but not limited to the following:
 - i. **Sizzle Reel** (30-45 seconds) – This will be a short highlight reel of the OWL exhibit or programming. The video will highlight various aspects and key recycling messages. Video will then be shared across social, web and key DISCOVERY and OCWR channels to drive interest in exhibit attendance. The DISCOVERY video crew will shoot enough content to create two (2) additional videos for additional marketing purposes (i.e., website, social media or public relations).
 - ii. **Garden Week** – DISCOVERY will promote compost and organic waste diversion by celebrating *National Garden Week* or *other environmental themed subject*. The DISCOVERY video team will capture footage of the OWL gardens plus additional shots that speak to the importance of caring, growing, and understanding the different plants and flowers that are most sustainable, with an emphasis on compost. DISCOVERY will share the short education video (2 – 3 minutes in length) on DISCOVERY social channels, members newsletter and local media to drive interest in the OWL exhibit.
 - iii. **Red Wiggler Composting** – This short video will capture all of the slimy details of our little Red Wigglers, especially those living in the OWL Exhibit. DISCOVERY will produce a short video that speaks to all the fun facts of the earthworm and how they're used for composting and to highlight important compost messaging. DISCOVERY will share the video on DISCOVERY social, with Cube members and local media as part of *National Earthworm Day*.

- b. **OWL Virtual Tour** – Each year, DISCOVERY will host a virtual tour opportunity specific to OWL. DISCOVERY shall plan and execute all logistics including development of itinerary, coordination of guests, invitations and follow up with input and approval from County Project Manager, or Designee. Guests will get a virtual experience of the OWL exhibit through highlighted programming or topics specific to the lab and OCWR messaging.
- c. **OWL “Open House”** – DISCOVERY will host an “Open House” opportunity for the Organics Waste Lab each year. This will be a free-flowing styled event where VIP guests can stop-in and browse the exhibit and all its components. The DISCOVERY team will conduct local market media outreach and service media with post-event assets including but not limited to press releases, photography, and video. DISCOVERY will handle all logistics and execution including but not limited to itinerary, invitations, set-up, outreach and follow up with approval from County Project Manager or Designee. All events and activities will come with clear instructions to ensure safety on-site and provide information for virtual access to exhibit information and materials.
- d. **Media (Advertising and PR)** – The DISCOVERY marketing team will handle media outreach and asset development to support both PR efforts and paid media support, including but not limited to:
 - i. **PR/Media Relations:**
 1. One annual OCWR dedicated OWL or EcoChallenge exhibit Press Release – The DISCOVERY team will draft, develop, distribute and follow up with a dedicated press release on an OCWR approved topic.
 2. Media Outreach – The DISCOVERY team will coordinate newsworthy topics with OCWR and conduct media outreach to a number of target publications. Media targets will include a number of local, trade and educational publications and community papers approved by County Project Manager or Designee. (i.e. *OC Register, Parenting OC, OC Mom, Solid Waste Magazine, Daily Pilot, Waste Dive, BioCycle*). Target lists will be evaluated annually and approved by OCWR. Up to five media relations topics/opportunities will be identified annually for execution and measurement by DISCOVERY.
 3. *OCWR PIO Coordination – DISCOVERY will identify additional opportunities throughout the year for OCWR Public Information Officer to execute added media relations outside of those outlined in the annual media relations plan. A minimum of three opportunities will be offered by DISCOVERY per year for execution by the OCWR PIO.*
 - ii. **Advertising/Paid Media**
 1. Creative – The DISCOVERY team will produce one (1) creative ad per year for use in print, digital and/or social channels; broadcast not included. DISCOVERY will work with OCWR on messaging, creative copy and brand design.
 2. Advertorials - Given the paid media DISCOVERY secures annually for the museum, DISCOVERY will seek additional value-add opportunities for OCWR editorial or promotional consideration. Opportunities will be identified for approval at the start of each new renewal year. The DISCOVERY team will purchase media with one or more of the following outlets (print and/or digital):

- a. Parenting OC
- b. KidsGuide
- c. Teacher publications

3. Flight-Times – Paid media will revolve around, but will not be limited to, environmentally-themed timelines, including:
 4. International Compost Awareness Week
 5. National Gardening Week
 6. National Earthworm Day
 7. America Recycles Day

Ad buy estimates to be approved by County Project Manager or Designee and not to exceed available budget. All invoicing will include supporting documentation for ad expenses.

10.5. Measurement

- a. The DISCOVERY team will produce a campaign wrap-up report (PowerPoint) sharing all the highlights of each event and annual campaign due within 30 days of the end of each contract year, including but not limited to:
 - i. Open House and Virtual Event results – attendees, participation, social comments/shares, photos, testimonials will all be captured and shared with OCWR in a recap summary
 - ii. End of Year – Includes all paid/earned/owned highlights as well as social metrics. Campaign could be used as a ‘case study’ for other community partner campaigns and OCWR award submittals.

10.6. Timeline

- a. The following is a draft of an annual campaign timeline for review; the team will conduct bi-monthly meetings to manage workflow, deadlines and deliverables.

Month 1	<ul style="list-style-type: none"> • Submit annual plan, timeline and budget • Team meeting – review of event target dates and opportunities • Team meeting – review Q1 and Q2 media and social media topics
Month 2	<ul style="list-style-type: none"> • Media outreach pitch – Compost topic • Team meeting – virtual event planning • Team meeting – virtual event, social media and event outreach
Month 3	<ul style="list-style-type: none"> • OWL Virtual event – International Compost Awareness Week • Team meeting—Recap of virtual event • Team meeting -- Planning for National Garden week • PR/media outreach for National Gardening Week • Ad buys prior to and after National Gardening Week
Month 4	<ul style="list-style-type: none"> • National Gardening Week • Team meeting – Summer and Fall campaign review • Summer media and social media pitch opportunities • Team meeting – summer recap
Month 5	<ul style="list-style-type: none"> • Team meeting – General campaign update • PR/media outreach planning for National Earthworm Day • Ad buy planning prior to and after National Earthworm Day
Month 6	<ul style="list-style-type: none"> • Team meeting —PIO media opportunities, pitch coordination for remaining part of year • Team meeting – social media campaign boost and Open House planning

Month 7	<ul style="list-style-type: none"> • Team meeting – Open House event planning • Team meeting – Open House ongoing event planning
Month 8	<ul style="list-style-type: none"> • Open House event – National Earthworm Day • Team meeting – Open House recap • Team meeting – America Recycles Day media planning and Ad buys
Month 9	<ul style="list-style-type: none"> • America Recycles Day media pitch/campaign • Team meeting – recap ARD • Team meeting – virtual programming promotion/ ad promotions
Month 10	<ul style="list-style-type: none"> • Team meeting – virtual promotion/ad promotions • Team meeting – PIO pitch opportunities
Month 11	<ul style="list-style-type: none"> • Team meeting – social media campaign boost and Ad buys • Team meeting – social media and Ad buy recap
Month 12	<ul style="list-style-type: none"> • Team meeting – recap of media relations • Team meeting – planning for next year campaign • Year-end annual campaign report and measurements

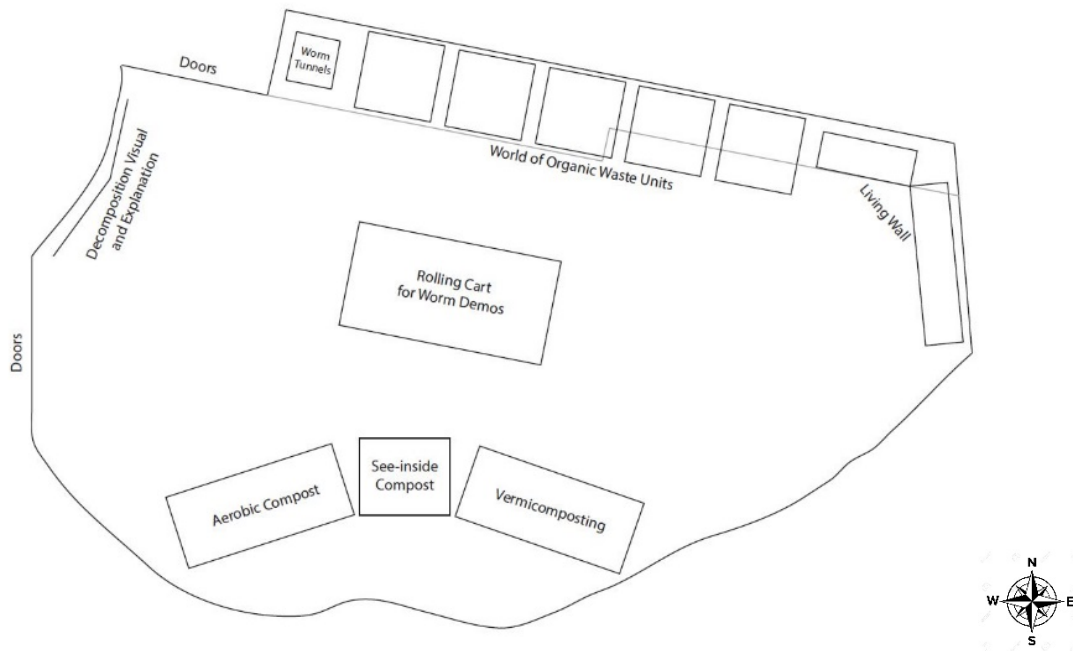
***Schedules may be altered due to DISCOVERY's reopening plans/events*

**ATTACHMENT A-1
NEW EXHIBIT LOCATION AT DISCOVERY CUBE ORANGE COUNTY
ORGANICS INTRODUCTION STATION AND LIVE COMPOSTING LAB**

Aerial View – Front Entrance



New Location Layout – Front Entrance, First Floor



Photos

**West Corner – Living Wall Area
East Side**



South Wall – W.O.W. Stations



**South Wall – W.O.W. Stations West Side
Vermicompost**



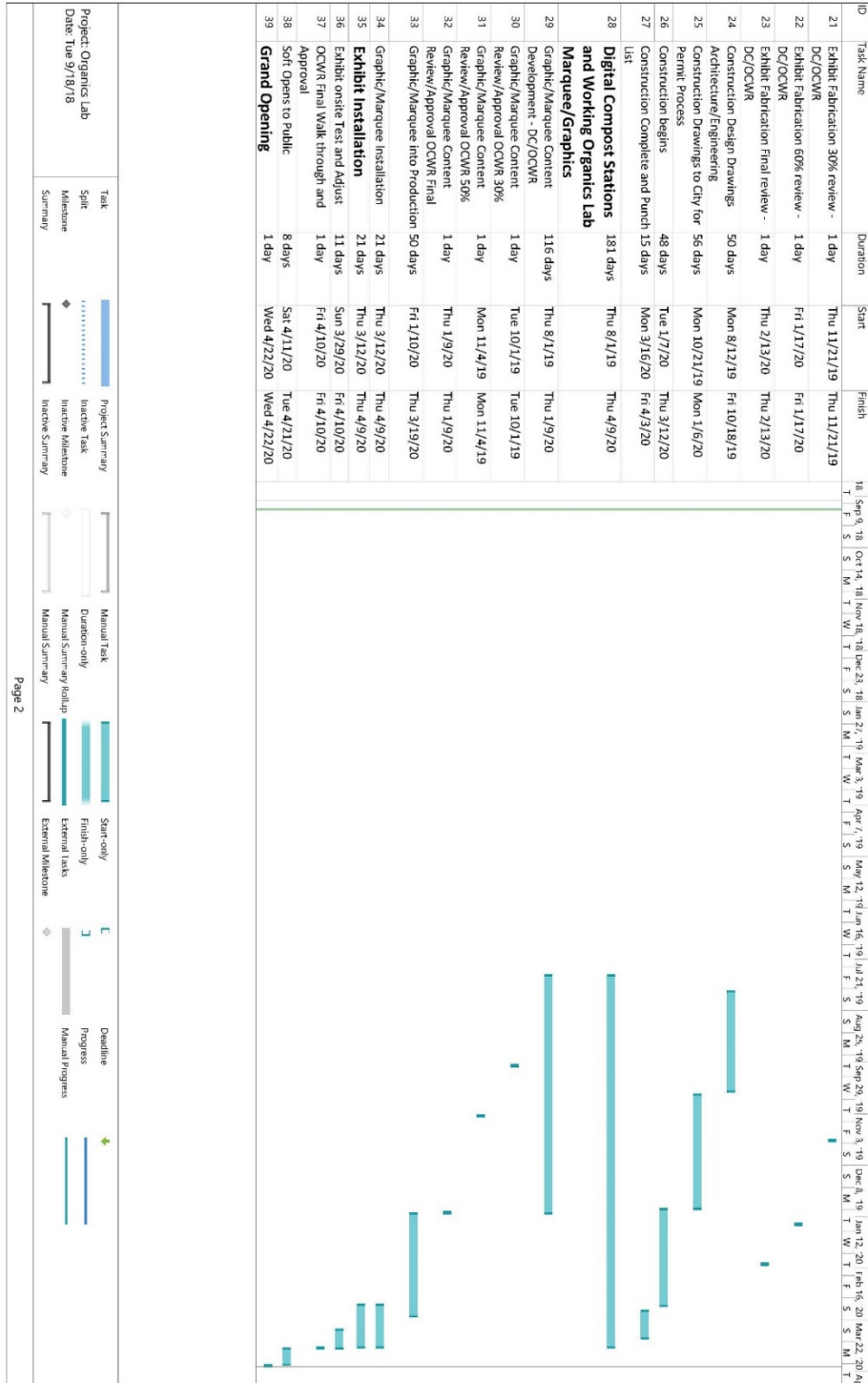
North Wall – Compost and



ATTACHMENT A-2 – TIMELINE
ORGANICS INTRODUCTION STATIONS & LIVE COMPOST LAB
Based on estimated start date of March 1, 2019

ID	Task Name	Duration	Start	Finish
1	Project Starts (Exhibit) Digital Compost Stations and Working Organics Lab	299 days	Fri 3/1/19	Wed 4/22/20
2	Digital Compost Stations and Working Organic Lab Exhibit Content Development - DC/OCWR	86 days	Fri 3/1/19	Fri 6/28/19
3	Exhibit Content Development 30% review - DC/OCWR	1 day	Mon 4/1/19	Mon 4/1/19
4	Exhibit Content Development 60% review - DC/OCWR	1 day	Wed 5/1/19	Wed 5/1/19
5	Exhibit Content Development Completion and Final Review - DC/OCWR	1 day	Fri 6/28/19	Fri 6/28/19
6	Exhibit out for Fabricator bid	25 days	Mon 7/8/19	Fri 8/9/19
7	Fabricator contract awarded	1 day	Fri 8/9/19	Fri 8/9/19
8	Digital Compost Stations	175 days	Mon 8/12/19	Fri 4/10/20
9	Exhibit Design Development/Shop Drawings - DC/OCWR	50 days	Mon 8/12/19	Fri 10/18/19
10	Exhibit Fabrication	104 days	Mon 10/21/19	Thu 3/12/20
11	Exhibit Fabrication 30% review - DC/OCWR	1 day	Thu 11/21/19	Thu 11/21/19
12	Exhibit Fabrication 50% review - DC/OCWR	1 day	Fri 1/17/20	Fri 1/17/20
13	Exhibit Fabrication Final review - DC/OCWR	1 day	Thu 2/13/20	Thu 2/13/20
14	Exhibit Compost Game Software Development review - DC/OCWR	132 days	Mon 7/1/19	Tue 12/31/19
15	Software Storyline review/approval DC/OCWR	1 day	Thu 8/1/19	Thu 8/1/19
16	Software Animation review/approval DC/OCWR	1 day	Mon 9/16/19	Mon 9/16/19
17	Software Production Begins	1 day	Mon 10/21/19	Mon 10/21/19
18	Working Organics Lab	175 days	Mon 8/12/19	Fri 4/10/20
19	Exhibit Design Development/Shop Drawings - DC/OCWR	50 days	Mon 8/12/19	Fri 10/18/19
20	Exhibit Fabrication	104 days	Mon 10/21/19	Thu 3/12/20

ATTACHMENT A-2 – TIMELINE (continued)



ATTACHMENT A-3 – BUDGETS AND PAYMENT SCHEDULES

Annual Marketing Budget*

Annual Marketing Budget	Annual Budget*	Payment Schedule
Administrative and promotional fee for Discovery ticket and coupon program	\$20,000	Annually in advance
Discovery tickets and memberships	\$67,714	Upon disbursement, annually in advance
Organics lab programming	\$26,780	Payable in arrears quarterly or bi-annually; justification may be provided for a percentage of payment in advance of hard costs required to initiate work
Earth Day sponsorship	\$10,000	80% Payable in advance to initiate work, with appropriate justification of hard costs and quotes
Metrics and reporting	\$30,000	Payable in arrears, \$7,500 quarterly or \$15,000 bi-annually, as mutually agreed
Ongoing program review and development	\$30,000	Payable in arrears, \$7,500 quarterly or \$15,000 bi-annually, as mutually agreed
New exhibit annual maintenance (once open)	\$7,000	Payable in arrears; justification may be provided for advance payment of hard costs required to initiate work
TOTAL/ANNUAL BUDGET:	\$191,494	

New Exhibit – Year One (Est. 2019)

Organic Waste Introduction Stations and Living Compost Lab

Organic Waste Introduction Stations	\$327,710	30% Payable in advance to initiate work, with justification of hard costs and quotes; subsequent intervals payable as milestones are achieved, as mutually agreed between DISCOVERY and County.
Living Compost Lab	\$408,550	30% Payable in advance to initiate work, with justification of hard costs and quotes; subsequent intervals payable as milestones are achieved, as mutually agreed between DISCOVERY and County.
TOTAL:	\$736,260	

Computer Software and Hardware Exhibit Upgrade – Year Three (Est. 2021)

Exhibit Upgrade

Computer software/hardware upgrades	\$15,000	30% Payable in advance to initiate work, with justification of hard costs and quotes; subsequent intervals payable as milestones are achieved, as mutually agreed between DISCOVERY and County.
TOTAL:	\$15,000	

*Funds may be reallocated among tasks as determined to be in the best interest of the County and as mutually agreed by DISCOVERY and County.

ATTACHMENT B COMPENSATION, PAYMENT TERMS & INVOICING INSTRUCTIONS

COMPENSATION

This is a fixed ceiling, all-inclusive contract for between County and DISCOVERY for the EcoChallenge Exhibits, EcoChallenge Brand & Strategic Marketing Plan as defined in Attachment A, Scope of Work.

DISCOVERY agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, shipping, freight, insurance requirements, and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the Contract requirements until acceptance, for risks connected with the services and for performance by DISCOVERY of all its duties and obligations hereunder.

DISCOVERY shall only be compensated as set forth herein below for materials and services delivered in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment in accordance with Articles C and P of County Contract Terms and Conditions.**

PAYMENT TERMS

Invoices shall be payable in accordance with Attachment A-3, Budgets and Payment Schedules. DISCOVERY shall follow the Invoicing Instructions below. Payment will be net 45 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the County Project Manager and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with DISCOVERY. In the event of a lost or misdirected invoice, DISCOVERY shall re-issue the invoice at no additional charge.

Billing shall cover services and/or goods not previously invoiced. DISCOVERY shall reimburse the County of Orange for any monies paid to DISCOVERY for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County of Orange shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract, and shall not be construed as acceptance of any part of the goods or services.

INVOICING INSTRUCTIONS

DISCOVERY shall use company's letterhead to submit all invoices for services rendered. Proper references must be made to the Scope of Work. Each invoice shall have a unique invoice number and include the following information:

- a. DISCOVERY's Name and Address Including Email Address
- b. DISCOVERY's Remittance Address, If Different from Above
- c. Name of County Agency/Department
- d. Contract Number (*MA-299-19010875*)
- e. Delivery/Service Address
- f. Start and End Dates of Service, Description of Services, and Prices
- g. Subcontractor Costs, If Applicable
- h. Sales Tax, If Applicable
- i. Freight/Delivery Cost, If Applicable
- j. Total Invoice Amount

Invoices shall be submitted electronically, via email to ocwrinvoice@ocwr.ocgov.com; or via mail to:

OC Waste & Recycling
ATTN: Accounts Payable
300 North Flower Street, Suite 400
Santa Ana, CA 92703

Payment (Electronic Funds Transfer EFT): The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the department representative listed in the bid. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.