

Mattress Recycling Council California, LLC

**MICRO AGREEMENT COVER SHEET**

Revised 10/01/19

NAME OF PROGRAM		PROJECT NUMBER MRC-3C20-001
Micro Funding for Mattress Collection Facilities		
AWARDEE NAME  County of Lake		
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER 94-60000825	TOTAL AMOUNT NOT TO EXCEED \$10,000	
TERM OF AGREEMENT  FROM: NTP	TO: June 30, 2021	

The Mattress Recycling Council California, LLC (MRC) and Eastlake Landfill, Lake County (the "Awardee"), in mutual consideration of the promises made herein, agree to comply with the provisions of this Agreement, which consists of this Micro Agreement Cover Sheet and the following Exhibits, which are incorporated by this reference and made a part of this Agreement as if attached hereto:

Exhibit A – Terms and Conditions

Exhibit B – Procedures and Requirements

Exhibit C – Application with revisions, if any, and any amendments. Includes target diversion of additional mattress units.

This Agreement is of no force or effect until it is fully executed by all parties shown in the space below. Awardee shall not commence performance until it receives a written Notice to Proceed from MRC.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

Mattress Recycling Council California, LLC		AWARDEE'S NAME (PRINT OR TYPE) Eastlake Landfill, Lake County	
SIGNATURE OF MRC'S AUTHORIZED SIGNATORY:		SIGNATURE OF AWARDEE	
TITLE Managing Director, MRC	DATE	TITLE Public Services Director	DATE
		AWARDEE'S ADDRESS (INCLUDE STREET, CITY, STATE AND ZIP CODE) 333 Second Street, Lakeport, CA 95453	
		AWARD REPRESENTATIVE (Person appointed by awardee as the point of contact vested with signature authority authorized to work with MRC on all project related issues):	
<b>CERTIFICATION OF FUNDING</b>			
AMOUNT ENCUMBERED BY THIS AGREEMENT \$10,000			
FISCAL YEAR/PROGRAM 2020/21 Micro Funding for Mattress Collection Facilities			
FUND TITLE Cycle 3 Collections			

**EXHIBIT A**  
**TERMS AND CONDITIONS**  
**Mattress Recycling Council Micro Award Program for**  
**Collections Cycle 3 Collections**  
**Fiscal Year 2020/21**

The following terms used in this Award Agreement (Agreement) have the meanings given to them below, unless the context clearly indicates otherwise:

- "CalRecycle" means the California Department of Resources Recycling and Recovery
- "MRC" means the Mattress Recycling Council California, LLC
- "Award Agreement" and "Agreement" means all documents comprising the agreement between MRC and the Recipient for this Award
- "Research Contractor" means the MRC contractor responsible for monitoring the award
- "Recipient" means the recipient of funds pursuant to this Agreement
- "Award Term" means the period running from the effective date of this Agreement through June 30, 2021.
- "Parties" means both MRC and the Recipient
- "Program" means the Mattress Recycling Council Micro Award Program for Collections
- "State" means the State of California, including, but not limited to, CalRecycle and/or its designated officer

**1. AIR OR WATER POLLUTION VIOLATION**

The Recipient shall not be:

- (a) In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district.
- (b) Out of compliance with any final cease and desist order issued pursuant to Water Code Section 13301 for violation of waste discharge requirements or discharge prohibitions.
- (c) Finally determined to be in violation of provisions of federal law relating to air or water pollution.

**2. AMENDMENT**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties. This Agreement may be amended, modified or augmented by mutual consent of the parties, subject to the requirements and restrictions of this paragraph.

**3. AMERICANS WITH DISABILITIES ACT**

The Grantee assures the state that it complies with the Americans with Disabilities Act of 1990 (ADA)(42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

**4. ASSIGNMENT, SUCCESSORS, AND ASSIGNS**

- (a) This Agreement may not be assigned by the Recipient, either in whole or in part, without MRC's prior written consent.
- (b) The provisions of this Agreement shall be binding upon and inure to the benefit of MRC, the Recipient, and their respective successors and assigns.

## **5. AUDIT/RECORDS ACCESS**

The Recipient agrees that MRC or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Recipient agrees to maintain such records for possible audit for a minimum of three (3) years after final payment date or award term end date, whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Recipient agrees to allow the designated representative(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Recipient agrees to include a similar right of the State to audit records and interview staff in any contract or subcontract related to performance of this Agreement.

[It may be helpful to share the Terms and Conditions and Procedures and Requirements with your finance department, contractors and subcontractors. Examples of audit documentation include, but are not limited to: expenditure ledger, payroll register entries and time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts, change orders, invoices, and/or cancelled checks.]

## **6. AUTHORIZED REPRESENTATIVE**

The Recipient shall continuously maintain a representative vested with signature authority authorized to work with MRC on all award-related issues. The Recipient shall, at all times, keep the Research Contractor informed as to the identity and contact information of the authorized representative.

## **7. AVAILABILITY OF FUNDS**

MRCs obligations under this Agreement are contingent upon and subject to the availability of funds appropriated for this award Program.

## **8. BANKRUPTCY/DECLARATION OF FISCAL EMERGENCY NOTIFICATION**

If the Recipient files for protection under Chapter 9 of the U.S. Bankruptcy Code (11 U.S.C. §901 et seq.) or declares a fiscal emergency at any time during the Award Term, the Recipient shall notify MRC within 15 days of such filing or declaration, pursuant to the procedures set forth in the section entitled "Communications" herein.

## **9. CHARTER CITIES**

If the Recipient is a charter city, a joint powers authority that includes one or more charter cities, or the regional lead for a regional program containing one or more charter cities, the grantee shall not receive any award funding if such funding is prohibited by Labor Code section 1782. If it is determined that Labor Code section 1782 prohibits funding for the project, this Agreement will be terminated and any disbursed funds shall be returned to MRC.

## **10. CHILD SUPPORT COMPLIANCE ACT**

For any agreement in excess of \$100,000, the Recipient acknowledges that:

(a) The Recipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code Section 5200 et seq.; and

- (b) The Recipient, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

### **11. COMMUNICATIONS**

All communications from the Recipient to MRC shall be directed to the Research Contractor. All notices, including reports and payment requests, required by this Agreement shall be given in writing by email, letter, or fax to the Research Contractor. If an original document is required, prepaid mail or personal delivery to the Research Contractor is required following the email or fax. Please send correspondence to Abbie Beane at [abeane@mattressrecyclingcouncil.org](mailto:abeane@mattressrecyclingcouncil.org) or 501 Wythe Street, Alexandria, VA 22314.

### **12. COMPLIANCE**

The Recipient shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits. The Recipient shall provide evidence, upon request, that all local, state, and/or federal permits, licenses, registrations, and approvals have been secured for the purposes for which award funds are to be expended. The Recipient shall maintain compliance with such requirements throughout the Award Term. The Recipient shall ensure that the requirements of the California Environmental Quality Act are met for any approvals or other requirements necessary to carry out the terms of this Agreement. The Recipient shall ensure that all of Recipient's contractors and subcontractors have all local, state, and/or federal permits, licenses, registrations, certifications, and approvals required to perform the work for which they are hired. Any deviation from the requirements of this section shall result in non-payment of award funds.

### **13. CONFLICT OF INTEREST**

MRC and its representatives shall avoid all conflicts of interest with any Recipient. No MRC member shall have a financial interest in any Recipient, unless such interest is legally authorized. MRC and its representatives who are selecting recipients shall not vote on a matter or in any way attempt to use his or her official position to influence an award decision if he or she has a prohibited interest with respect to the Recipient.

MRC's award program may also be reviewed by CalRecycle. Therefore, the Recipient should be aware of the provision below, related to the hiring and employment of current or state employees. Recipient should contact CalRecycle if clarification is needed.

Current State Employees (Pub. Contract Code, § 10410):

- (a) No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.
- (b) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code, § 10411):

- (a) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

- (b) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving state service.

If the Recipient violates any provisions of above paragraphs, such action by the Recipient shall render this Agreement void. (Pub. Contract Code, § 10420).

#### **14. CONTRACTORS/SUBCONTRACTORS**

The Recipient will be entitled to make use of its own staff and such contractors and subcontractors as are mutually acceptable to the Recipient and MRC. Any change in contractors or subcontractors must be mutually acceptable to the parties. Immediately upon termination of any such contract or subcontract, the Recipient shall notify the Research Contractor. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MRC and any contractors or subcontractors of Recipient, and no agreement with contractors or subcontractors shall relieve the Recipient of its responsibilities and obligations hereunder. The Recipient agrees to be as fully responsible to MRC for the acts and omissions of its contractors and subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Recipient. The Recipient's obligation to pay its contractors and subcontractors is an independent obligation from MRC's obligation to make payments to the Recipient. As a result, MRC shall have no obligation to pay or to enforce the payment of any moneys to any contractor or subcontractor.

#### **15. COPYRIGHTS**

Recipient retains title to any copyrights or copyrightable material produced pursuant to this Agreement. Recipient hereby grants to MRC a royalty-free, nonexclusive, transferable, world-wide license to reproduce, translate, and distribute copies of any and all copyrightable materials produced pursuant this Agreement, for nonprofit, non-commercial purposes, and to have or permit others to do so on MRC's behalf. Recipient is responsible for obtaining any necessary licenses, permissions, releases or authorizations to use text, images, or other materials owned, copyrighted, or trademarked by third parties and for extending such licenses, permissions, releases, or authorizations to MRC pursuant to this section.

#### **16. CORPORATION QUALIFIED TO DO BUSINESS IN CALIFORNIA**

When work under this Agreement is to be performed in California by a corporation, the corporation shall be in good standing and currently qualified to do business in the State. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

#### **17. DISCHARGE OF AWARD OBLIGATIONS**

The Recipient's obligations under this Agreement shall be deemed discharged only upon acceptance of the final report by MRC. If the Recipient is a non-profit entity, the Recipient's Board of Directors shall accept and certify as accurate the final report prior to its submission to MRC.

#### **18. DISCLAIMER OF WARRANTY**

MRC makes no warranties, express or implied, including without limitation, the implied warranties of merchantability and fitness for a particular purpose, regarding the materials, equipment, services or products purchased, used, obtained and/or produced with funds awarded under this Agreement, whether such materials, equipment, services or products are purchased, used, obtained and/or produced alone or in combination with other materials, equipment, services or products. No MRC employees or agents have any right or authority to make any other representation, warranty or promise with respect to any materials, equipment, services or products, purchased, used, obtained, or produced with award funds. In no event shall MRC be liable for special, incidental or consequential damages arising from the use, sale or distribution of any materials, equipment, services or products purchased or produced with funds awarded under this Agreement.

#### **19. DISCRETIONARY TERMINATION**

The Managing Director shall have the right to terminate this Agreement at his or her sole discretion at any time upon 30 days written notice to the Recipient. Within 45 days of receipt of written notice, Recipient is required to:

- (a) Submit a final written report describing all work performed by the Recipient.
- (b) Submit an accounting of all award funds expended up to and including the date of termination.
- (c) Reimburse MRC for any unspent funds.

#### **20. DISPUTES**

In the event of a dispute regarding performance under this Agreement or interpretation of requirements contained therein, the Recipient may, in addition to any other remedies that may be available, provide written notice of the particulars of such dispute to Abbie Beane, Research Contractor, at [abeane@mattressrecyclingcouncil.org](mailto:abeane@mattressrecyclingcouncil.org).

Unless otherwise instructed by the Research Contractor, the Recipient shall continue with its responsibilities under this Agreement during any dispute.

#### **21. DRUG-FREE WORKPLACE CERTIFICATION**

The person signing this Agreement on behalf of the Recipient certifies under penalty of perjury under the laws of California, that the Recipient will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions that will be taken against employees for violations.
- (b) Establish a drug-free awareness program to inform employees about all of the following:
  - (1) The dangers of drug abuse in the workplace.
  - (2) The Recipient's policy of maintaining a drug-free workplace.
  - (3) Any available counseling, rehabilitation, and employee assistance programs.
  - (4) Penalties that may be imposed upon employees for drug abuse violations.
- (c) Require that each employee who works on the award:
  - (1) Receive a copy of the drug-free policy statement of the Recipient.
  - (2) Agrees to abide by the terms of such statement as a condition of employment on the award.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Recipient may be ineligible for award

of any future state agreements if CalRecycle determines that the Recipient has made a false certification, or violated the certification by failing to carry out the requirements as noted above.

## **22.EFFECTIVENESS OF AGREEMENT**

This Agreement is of no force or effect until signed by both parties.

## **23.ENTIRE AGREEMENT**

This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire agreement of the parties.

## **24.ENVIRONMENTAL JUSTICE**

In the performance of this Agreement, the Recipient shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

## **25.EXPATRIATE CORPORATIONS**

The person signing this Agreement on behalf of the Recipient certifies under penalty of perjury under the laws of California, that the Recipient is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Sections 10286 and 10286.1, and is eligible to contract with the State of California.

## **26.FAILURE TO PERFORM AS REQUIRED BY THIS AGREEMENT**

MRC will benefit from the Recipient's full compliance with the terms of this Agreement only by the Recipient's measurable and verified increase in the recycling and/or reuse of California-generated post-consumer mattresses, or improved efficiencies or increased safety in operations. New sites must commit to a one-year minimum contract as an MRC-contracted mattress drop-off site from the beginning of the Award Term.

If the Research Contactor determines that the Recipient has not complied with the Award Agreement, the Recipient may forfeit the right to reimbursement of any Award funds not already paid by MRC and the return of funds already expended by MRC.

## **27.FORCE MAJEURE**

Neither MRC nor the Recipient, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by MRC or the Recipient, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.

## **28.FORFEIT OF AWARD FUNDS/REPAYMENT OF FUNDS IMPROPERLY EXPENDED**

If award funds are not expended, or have not been expended, in accordance with this Agreement, or if real or personal property acquired with award funds is not being used, or has not been used, for award purposes in accordance with this Agreement, the MRC Managing Director, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Recipient to forfeit the unexpended portion of the award funds and/or to repay to MRC any funds improperly expended.

### **29. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES**

The Recipient is required to use Generally Accepted Accounting Principles in documenting all award expenditures.

### **30. RESEARCH CONTRACTOR**

The Research Contractor's responsibilities include monitoring award progress, reviewing and approving Payment Requests and other documents delivered to MRC pursuant to this Agreement. The Research Contractor may monitor Recipient performance to ensure that the Recipient expends funds appropriately and, in a manner, consistent with the terms and conditions contained herein. The Research Contractor does not have the authority to approve any deviation from or revision to the Terms and Conditions (Exhibit A).

### **31. RECIPIENT ACCOUNTABILITY**

The Recipient is ultimately responsible and accountable for the manner in which the award funds are utilized and accounted for and the way the grant is administered, even if the Recipient has contracted with another organization, public or private, to administer or operate its award program. In the event an audit should determine that award funds are owed to MRC, the Recipient is responsible for repayment of the funds to MRC.

### **32. RECIPIENT'S INDEMNIFICATION AND DEFENSE OF MRC**

The Recipient agrees to indemnify, defend and save harmless MRC, and their officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Recipient as a result of the performance of this Agreement.

### **33. GRANTEE'S NAME CHANGE**

A written amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change, MRC will process the amendment. Payment of Payment Requests presented with a new name cannot be paid prior to approval of the amendment.

### **34. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

The person signing this Agreement on behalf of the Recipient certifies under penalty of perjury that no more than one final non-appealable finding of contempt of court by a federal court has been issued against the Recipient within the immediately preceding two-year period because of the Recipient's failure to comply with an order of a federal court which orders the Recipient to comply with an order of the National Labor Relations Board. This section is not applicable if the Recipient is a public entity.

### **35. NO AGENCY RELATIONSHIP CREATED/INDEPENDENT CAPACITY**

The Recipient and the agents and employees of Recipient, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of MRC.

### **36. NO WAIVER OF RIGHTS**



MRC shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by MRC. No delay or omission on the part of MRC in exercising any rights shall operate as a waiver of such right or any other right. A waiver by MRC of a provision of this Agreement shall not prejudice or constitute a waiver of MRC's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by MRC, nor any course of dealing between MRC and Recipient, shall constitute a waiver of any of MRC's rights or of any of Recipient's obligations as to any future transactions. Whenever the consent of MRC is required under this Agreement, the granting of such consent by MRC in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of MRC.

### **37. NON-DISCRIMINATION CLAUSE**

- (a) During the performance of this Agreement, Recipient and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment on the bases enumerated in Government Code Section 12900 et seq.
- (b) The person signing this Agreement on behalf of the Recipient certifies under penalty of perjury under the laws of California that the Recipient has, unless exempted, complied with the nondiscrimination program requirements (Gov. Code, § 12990, subd. (a-f) and California Code of Regulations, Title 2, Section 8103). (Not applicable to public entities.)

### **38. ORDER OF PRECEDENCE**

The performance of this award shall be conducted in accordance with the Terms and Conditions, Work Plan, and Budget of this Agreement, or other combination of exhibits specified on the Award Agreement Coversheet attached hereto (collectively referred to as "Terms"). Recipient's MRC-approved Application (Recipient's Application) is hereby incorporated herein by this reference. In the event of conflict or inconsistency between the articles, exhibits, attachments, specifications or provisions that constitute this Agreement, the following order of precedence shall apply:

- (a) Award Agreement Coversheet and any Amendments thereto
- (b) Terms and Conditions
- (c) Procedures and Requirements
- (d) Budget
- (e) Work Plan
- (f) Recipient's Application
- (g) All other attachments hereto, including any that are incorporated by reference.

### **39. OWNERSHIP OF DRAWINGS, PLANS, AND SPECIFICATIONS**

The Recipient shall, at the request of MRC provide MRC with copies of any data, drawings, design plans, specifications, photographs, negatives, audio and video productions, films, recordings, reports, findings, recommendations, and memoranda of every description or any part thereof, prepared under this Agreement. Recipient hereby grants to MRC a royalty-free, nonexclusive, transferable, world-wide license to reproduce, translate, and distribute copies of any and all such materials produced pursuant this Agreement, for nonprofit, non-commercial purposes, and to have or permit others to do so on MRC's behalf.

### **40. PAYMENT**

- (a) The approved Budget, if applicable, is attached hereto and incorporated herein by this reference and states the maximum amount of allowable costs for each of the tasks

identified in the Work Plan, if applicable, which is attached hereto and incorporated herein by this reference. MRC shall reimburse the Recipient for only the work and tasks specified in the Work Plan or the Recipient's Application at only those costs specified in the Budget and incurred in the term of the Agreement.

- (b) The Recipient shall carry out the work described in the Work Plan or in the Recipient's Application in accordance with the approved Budget, and shall obtain the Research Contractor's written approval of any changes or modifications to the Work Plan, approved project as described in the Recipient's Application or the approved Budget prior to performing the changed work or incurring the changed cost. If the Recipient fails to obtain such prior written approval, the MRC Managing Director, at his or her sole discretion, may refuse to provide funds to pay for such work or costs.
- (c) The Recipient shall request reimbursement in on a quarterly basis or upon special request, using forms sent by the Research Contractor as well as supporting documentation.
- (d) Payment will be made only to the Recipient.  
Reimbursable expenses shall not be incurred unless and until the Recipient receives a Notice to Proceed. Reimbursable expenses may not be incurred after the end of the Award Term.

#### **41. PERSONAL JURISDICTION**

The Recipient consents to personal jurisdiction in the State of California for all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties. Native American Tribal grantees expressly waive tribal sovereign immunity as a defense to any and all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties.

#### **42. REAL AND PERSONAL PROPERTY ACQUIRED WITH AWARD FUNDS**

- (a) All real and personal property, including equipment and supplies, acquired with award funds shall be used by the Recipient only for the purposes for which MRC approved their acquisition for so long as such property is needed for such purposes, regardless of whether the Recipient continues to receive award funds from MRC for such purposes. In no event shall the length of time during which such property, including equipment and supplies, acquired with award funds, is used for the purpose for which MRC approved its acquisition be less than three (3) years after the end of the award term, during which time the property, including equipment and supplies, must remain in the State of California.
- (b) Subject to the obligations and conditions set forth in this section, title to all real and personal property acquired with award funds, including all equipment and supplies, shall vest upon acquisition in the Recipient. The Recipient may be required to execute all documents required to provide MRC with a security interest in any real or personal property, including equipment and supplies, and it shall be a condition of receiving this award that MRC shall be in first priority position with respect to the security interest on any such property acquired with the award funds, unless pre-approved in writing by the Research Contractor that MRC will accept a lower priority position with respect to the security interest on the property. Recipient shall inform any lender(s) from whom it is acquiring additional funding to complete the property purchase of this award condition.
- (c) The Recipient may not transfer Title to any real or personal property, including equipment and supplies, acquired with award funds to any other entity without the express authorization of MRC.

- (d) MRC will not reimburse the Recipient for the acquisition of equipment that was previously purchased with MRC or other award funds, unless the acquisition of such equipment with award funds is pre-approved in writing by the Research Contractor. In the event of a question concerning the eligibility of equipment for award funding, the burden will be on the Recipient to establish the pedigree of the equipment.

#### **43. REASONABLE COSTS**

A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. Consideration will be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the performance of the award.
- (b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, federal and state laws and regulations, and the terms and conditions of this Agreement.
- (c) Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, clients, and the public at large.
- (d) Significant deviations from the established practices of the organization which may unjustifiably increase the project costs.

#### **44. RECYCLED-CONTENT PAPER**

All documents submitted by the Recipient must be printed double-sided on recycled-content paper containing 100 percent post-consumer fiber. Specific pages containing full color photographs or other ink-intensive graphics may be printed on photographic paper.

#### **45. REDUCTION OF WASTE**

In the performance of this Agreement, Recipient shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials used; alternatives to disposal of materials consumed; and the practice of other waste reduction measures where feasible and appropriate.

#### **46. REIMBURSEMENT LIMITATIONS**

Under no circumstances shall the Recipient seek reimbursement pursuant to this Agreement for a cost or activity that has been or will be paid for through another funding source. The Recipient shall not seek reimbursement for any costs used to meet cost sharing or matching requirements of any other MRC-funded program.

All costs charged against the Agreement shall be net of all applicable credits. The term "applicable credits" refers to those receipts or reductions of expenditures that operate to offset or reduce expense items that are reimbursable under this Agreement. Applicable credits may include, but are not necessarily limited to, rebates or allowances, discounts, credits toward subsequent purchases, and refunds. Recipient shall, where possible, deduct the amount of the credit from the amount billed as reimbursement for the cost, or shall deduct the amount of the credit from the total billed under a future invoice.

#### **47. REMEDIES**

Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.

#### **48. SELF-DEALING AND ARM'S LENGTH TRANSACTIONS**

All expenditures for which reimbursement pursuant to this Agreement is sought shall be the result of arm's-length transactions and not the result of, or motivated by, self-dealing on the part of the Recipient or any employee or agent of the Recipient. For purposes of this provision, "arm's-length transactions" are those in which both parties are on equal footing and fair market forces are at play, such as when multiple vendors are invited to compete for an entity's business and the entity chooses the lowest of the resulting bids. "Self-dealing" is involved where an individual or entity is obligated to act as a trustee or fiduciary, as when handling public funds, and chooses to act in a manner that will benefit the individual or entity, directly or indirectly, to the detriment of, and in conflict with, the public purpose for which all grant monies are to be expended.

#### **49. SEVERABILITY**

If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.

#### **50. SITE ACCESS**

The Recipient shall allow the state to access sites at which award funds are expended and related work being performed at any time during the performance of the work and for ninety (90) days after completion of the work, or until all issues related to the project have been resolved.

#### **51. STOP WORK NOTICE**

Immediately upon receipt of a written notice from the Research Contractor to stop work, the Recipient shall cease all work under this Agreement.

#### **52. TERMINATION FOR CAUSE**

MRC may terminate this Agreement and be relieved of any payments should the Recipient fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, MRC may proceed with the work in any manner deemed proper by MRC. All costs to MRC shall be deducted from any sum due the Recipient under this Agreement. Termination pursuant to this section may result in forfeiture by the Recipient of any funds retained.

#### **53. TIME IS OF THE ESSENCE**

Time is of the essence to this Agreement.

#### **54. TOLLING OF STATUTE OF LIMITATIONS**

The statute of limitations for bringing any action, administrative or civil, to enforce the terms of this Agreement or to recover any amounts determined to be owing to MRC as the result of any audit of the award covered by this Agreement shall be tolled during the period of any audit resolution, including any appeals by the Recipient to the MRC Director.

#### **55. UNION ORGANIZING**

By signing this Agreement, the Recipient hereby acknowledges the applicability of Government Code Sections 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Agreement and hereby certifies that:

- (a) No award funds disbursed will be used to assist, promote, or deter union organizing by employees performing work under this Agreement.
- (b) If the Recipient makes expenditures to assist, promote, or deter union organizing, the grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that grantee shall provide those records to the Attorney General upon request.

#### **56. UNRELIABLE LIST**

Prior to authorizing any contractor or subcontractor to commence work under this Award, the Recipient shall submit to MRC a Reliable Contractor Declaration from the contractor or subcontractor, signed under penalty of perjury, disclosing whether or any of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor or subcontractor within the preceding three (3) years. If a contractor is placed on CalRecycle's Unreliable List or MRC's Unreliable List after award, the Recipient may be required to terminate that contract.

#### **57. VENUE/CHOICE OF LAW**

- (a) All proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be held in Los Angeles County, California. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and place where the obligation is incurred is Los Angeles County, California.
- (b) The laws of the State of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder.

#### **58. WAIVER OF CLAIMS AND RECOURSE AGAINST MRC**

The Recipient agrees to waive all claims and recourse against MRC, its officials, officers, agents, employees, and servants, including, but not limited to, the right to contribution for loss or damage to persons or property arising out of, resulting from, or in any way connected with or incident to this Agreement. This waiver extends to any loss incurred attributable to any activity undertaken or omitted pursuant to this Agreement or any product, structure, or condition created pursuant to, or as a result of, this Agreement.

#### **59. WORK PRODUCTS**

Recipient shall provide MRC with copies of all final products identified in the Work Plan. Recipient shall also provide MRC with copies of all public education and advertising material produced pursuant to this Agreement.

#### **60. WORKERS' COMPENSATION/LABOR CODE**

The Recipient is aware of Labor Code Section 3700, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the Labor Code, and the Recipient agrees to comply with such provisions before commencing the performance of the work of this Agreement.

## EXHIBIT B PROCEDURES AND REQUIREMENTS

### MICRO AWARDS FOR MATTRESS COLLECTION FACILITIES PROGRAM Cycle 3 Collections – Fiscal Year 2020/21

**Copies of these Procedures and Requirements should be shared with BOTH the Finance Department AND the staff responsible for implementing the grant activities.**

#### INTRODUCTION

The Micro Awards for Mattress Collection Facilities Program is administered through the Mattress Recycling Council (MRC). These Procedures and Requirements describe project and reporting requirements, report due dates, report contents, payment conditions, eligible and ineligible project costs, project completion and closeout procedures, records and audit requirements.

This document is attached to, and incorporated by reference, into the Award Agreement.

#### MILESTONES

<b>NTP Date</b>	<b>Award Term</b> on date indicated on the Notice to Proceed (NTP)
<b>January 21, 2021</b>	<b>Progress Report Due</b>
<b>June 21, 2021</b>	<b>Final Progress Report and final Payment Request Due</b>
<b>June 30, 2021</b>	<b>Term End</b>

**No extensions will be granted for submittal of Final Progress Report and final Payment Request.** Failure to submit the Final Progress Report and final Payment Request with appropriate documentation by June 21, 2021 may result in rejection of the Payment Request and/or forfeiture by the awardee of claims for costs incurred that might otherwise have been eligible for award funding. Please email all progress reports and payment requests to Abbie Beane at [abeane@mattressrecyclingcouncil.org](mailto:abeane@mattressrecyclingcouncil.org).

#### PRIOR TO COMMENCING WORK

Prior to commencing work under this Award, the recipient's Research Contractor or primary contact and authorized Signature Authority should review the Terms and Conditions (Exhibit A) and the Procedures and Requirements (Exhibit B) to identify key Award administrative requirements. Evaluation of the recipient's compliance with these requirements is a major focus of audits.

#### Reliable Contractor Declaration

Prior to authorizing a contractor(s) to commence work under this Award, the recipient shall submit to the Research Contractor a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14

([www.calrecycle.ca.gov/Laws/Regulations/Title14/ch1.htm#ch1a5](http://www.calrecycle.ca.gov/Laws/Regulations/Title14/ch1.htm#ch1a5)), California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor(s) and the subcontractor(s), respectively.

If a (sub) contractor is placed on the CalRecycle Unreliable List or the newly created Mattress Recycling Council Unreliable List after award of these funds, the recipient may be required to terminate that contract.

#### **AWARD TERM**

The Award Term begins on the date indicated in the Notice to Proceed (NTP). The Award Term ends on June 30, 2021. June 21, 2021 is the date the Final Progress Report and final Payment Request are due to MRC.

Award-eligible program expenditures may start no earlier than the date indicated in the Notice to Proceed. Eligible program costs must be incurred no later than June, 21 2021.

**Costs incurred to prepare the Final Progress Report and final Payment Request are only eligible for reimbursement during the Award Term.**

#### **ELIGIBLE COSTS**

All Award expenditures must be for activities, products and costs specifically included in the approved Work Plan and approved Budget. Eligible costs must be incurred, services provided and goods received after receiving a NTP and before the end of the Award Performance Period.

Any proposed revision(s) to the Work Plan and/or Budget must be submitted in writing and pre-approved in writing by the Research Contractor prior to recipient incurring the proposed expenditure. The approval document should be retained by the recipient for audit purposes. See Audit Record/Access section of the Terms and Conditions (Exhibit A).

Eligible costs are limited to the following:

- Direct costs for infrastructure/installation or equipment which is for use at MRC-contracted collection sites AND improves the recyclability of mattresses, results in fewer mattresses being landfilled, and/or improves the efficiency of mattress collection.

#### **INELIGIBLE COSTS**

Any costs not specifically included in the approved Budget and not directly related to the approved Award project are ineligible for reimbursement. Contact the Research Contractor if clarification is needed. Ineligible costs include, but are not limited to:

- Costs incurred prior to the date of the NTP letter or after June 21, 2021.
- Education and outreach materials
- Overhead and salaries
- Costs unrelated to the grant project



**PUBLICITY:** The grantee must receive written approval from MRC before publicizing the award in any medium, including news media, brochures, social media or other types of promotional materials.

### **REPORTING REQUIREMENTS**

A Progress Report and a Final Progress Report are required by this Agreement; however, the Research Contractor may request a Progress Report at any time during the Award Term. Reports should be emailed to [abeane@mattressrecyclingcouncil.org](mailto:abeane@mattressrecyclingcouncil.org).

The reports must be current, include all required sections and documents, and must be approved by the Research Contractor before any Payment Request can be processed. Failure to comply with the specified reporting requirements may be considered a breach of this Agreement and may result in the termination of this Agreement or rejection of the Payment Request and/or forfeiture by the recipient of claims for costs incurred that might otherwise have been eligible for grant funding. Any problems or delays must be reported immediately to the Research Contractor.

### **PROGRESS REPORT**

The recipient must submit a **Progress Report by January 21, 2021**. This report should cover award activities that occurred from the NTP date through **January 1, 2021**. The report should include the following:

- How funds have been used to date.
- A description of work completed according to categories outlined in the work plan. How will the recipient complete delayed tasks to make up the lost time?
- What have been some of the project challenges and how have they been overcome?
- A report on the success of installing equipment and/or infrastructure to improve collection.
- Quantities of additional California mattresses recycled as a result of the project.
- Improvements to operational efficiencies and/or cost savings.
- Project photos.
- Work to be conducted during the subsequent Award reporting period and any adjustments to the work plan.
- List any changes to all permits, licenses, certifications, contracts or filings relevant to the Award work.

### **FINAL REPORT**

The **Final Report** is due **June 21, 2021**. This report should cover grant activities from NTP through **June 1, 2021**. The following items must be included:

1. The Award Number, Recipient's name and Award Term.
2. How funds have been used to date.
3. A description of work completed according to categories outlined in the work plan. How will the recipient complete delayed tasks to make up the lost time?

4. What have been some of the project challenges and how have they been overcome?
5. A report on the success of installing equipment and/or infrastructure to improve collection.
6. Quantities of additional California mattresses recycled as a result of the project.
7. Improvements to operational efficiencies and/or cost savings.
8. Project photos.
9. List any changes to all permits, licenses, certifications, contracts or filings relevant to the project work.
10. Does the recipient anticipate project impacts beyond the Award Term, and if so, what are the impacts in terms of scope and scale? Please quantify in terms of number of new mattresses recycled and/or improvements to collection logistics and/or a reduction in costs.

#### **AWARD PAYMENT INFORMATION**

1. Payment to the recipient for eligible Award expenses is made on a reimbursement basis only and for only those materials and services specified in the approved Award application.
2. Reimbursement may be requested only twice during the Award Term. In conjunction with (or after) submission of the Progress Report and in conjunction with the Final Progress Report. MRC may consider payment requests submitted outside of the Progress Report or Final Report periods.
3. The recipient must submit the required Progress Report/Final Progress Report, and the Research Contractor must approve the report prior to, or concurrent with, submission of the Payment Request.
4. The recipient must submit a completed Payment Request and provide supporting documentation as described in the "Payment Request and Documentation" section for completed project(s) only.
5. Award payments will only be made to the recipient. It is the recipient's responsibility to pay all contractors and subcontractors for purchased goods and services.
6. MRC will make payments to the recipient as promptly as fiscal procedures permit. The recipient can typically expect payment within 30 days upon receipt of complete progress reports.

#### **PAYMENT REQUEST AND DOCUMENTATION**

Submit payment requests to Abbie Beane at [abeane@mattressrecyclingcouncil.org](mailto:abeane@mattressrecyclingcouncil.org) with:

##### **Supporting Documentation**

- A. A scanned copy of the **Payment Request form and Expenditure Itemization Summary** with signature of the Award representative.
- B. An invoice for goods or services provided.
- C. Proof of payment, such as cancelled checks, invoices marked paid with a zero balance, proof of electronic funds transfer or a receipt.

### **AUDIT CONSIDERATIONS**

The recipient agrees to maintain records and supporting documentation pertaining to the performance of this grant subject to possible audit for a minimum of three (3) years after final payment date or Award Term end date, whichever is later. A longer period of records retention may be stipulated in order to complete any action and/or resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later.

Examples of audit documentation include, but are not limited to, expenditure ledger, payroll register entries, time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts and change orders, samples of items and materials developed with Award funds, invoices and/or cancelled checks. Please refer to the Terms and Conditions (Exhibit A) for more information.