

## **AGREEMENT FOR THE OPERATION OF A YARD WASTE COMPOSTING FACILITY**

This agreement made and entered into by and between the City of Mankato, Minnesota, hereinafter referred to as the City, and OMG Midwest dba Minnesota Paving & Materials, as Minnesota corporation, having a principal place of business at 1905 Third Avenue in the City of Mankato, hereinafter referred to as OMG.

The City of Mankato wishes to operate, for benefit the residents of the City of Mankato, a facility for the composting of yard waste, such as grass clippings, garden materials, leaves, brush and other similar materials no longer allowed to be landfilled under existing state law and regulation. OMG owns a site within Blue Earth County in Section 30 and 31 of Lime Township that OMG currently uses as a yard waste composting facility. OMG has the equipment and personnel necessary for the continued operation, and maintenance of the composting facility and to accept yard waste materials from residents within the City of Mankato.

OMG and the City of Mankato agree as follows:

### **Section 01 – TERM OF AGREEMENT**

This agreement will commence on January 1, 2025, and shall expire on December 31, 2025.

### **Section 02 – AREA TO BE SERVED**

OMG will accept delivered, compostable yard waste material, without charge, from private (i.e., non-commercial) residents of the City of Mankato provided the material is prepared and delivered to the facility in a manner reasonably acceptable to OMG and the City of Mankato. OMG will accept compostable yard waste material from the City of Mankato Departments under the same conditions at no additional cost.

### **Section 03 – PARTICIPATION OF OTHER PARTIES**

OMG may, at its option, accept compostable materials and shall be entitled to collect fees from commercial refuse haulers, landscape contractors, tree services, or other commercial generators or transporters of compostable materials and from individuals who are not residents of the City of Mankato.

#### **Section 04 – HOURS OF OPERATION**

OMG agrees to have the yard waste compost facility open to receive yard waste materials at the facility drop off area in accordance with the following schedule:

April 1 – October 31

|                       |                    |
|-----------------------|--------------------|
| Monday through Friday | 7:00 am – 6:00 pm  |
| Saturday              | 7:00 am – 12:00 pm |

November 1 – March 31

|                       |                   |
|-----------------------|-------------------|
| Monday through Friday | 8:00 am – 4:30 pm |
|-----------------------|-------------------|

Between April 1 and November 15 each year the facility will be closed on the following holidays: Easter, Memorial Day, Independence Day, and Labor Day.

#### **Section 05 – COMPOSTABLE MATERIALS**

The following are examples of the material that will be acceptable at the yard waste composting facility at no charge to residents of the City of Mankato and the City Departments.

|                      |               |               |
|----------------------|---------------|---------------|
| Grass/Lawn Clippings | Garden Wastes | Leaves        |
| Christmas Trees      | Weeds         | Brush         |
| Tree Waste/Pruning's | Shrub Waste   | Sod Stripping |

Items may be added to or deleted from this list as agreed between the parties or required by law.

#### **Section 06 – FACILITY OPERATION AND EQUIPMENT**

OMG will provide the compost site and all labor, equipment, and management skills necessary for the operation and maintenance of the composting facility. The collection, treatment, storage, and processing of the compost material will be in accordance with the Minnesota Pollution Control Agency rules, ordinances and guidelines for the operation of yard waste compost facilities.

OMG agrees to maintain all buildings, grounds, driving areas and collected materials in a well maintained, clean, and safe and nuisance free manner for the public.

OMG shall provide, at its sole expense, all machinery and equipment as may be necessary to receive, store, process and transport the yard waste materials brought to the facility. OMG will keep the equipment used in the performance of this agreement in a clean, sanitary and mechanically sound condition.

OMG agrees to ensure that a sufficient number of qualified personnel are employed and assigned to operate and maintain the facility at all operating times. All workers employed shall be competent and skilled in the performance of the work to which they may be assigned. Failure in the performance of this agreement due to OMG's inability to obtain workers of the number and skill required shall constitute a default of this agreement. The workers shall not use loud or profane language, shall be

courteous to patrons at all times (arguing will not be tolerated) and shall perform their work as quietly and quickly as possible. All complaints shall be made directly to OMG and shall be given prompt, courteous attention.

#### **Section 07 – PROCESSING AND MARKETING OF COMPOSTABLE MATERIALS**

OMG shall be responsible for all materials collected at the yard waste composting facility and shall process and market the recyclable materials in conformance with state regulations. OMG shall be entitled to all monies collected from the sale of composted materials.

#### **Section 08 – PERMITS AND LICENSES**

OMG shall obtain all applicable state, county and municipal permits and licenses required to operate a yard waste composting facility and comply with all applicable regulations pertaining to the operation of the facility.

#### **Section 09 – RECORDS AND REPORTS**

OMG shall prepare and maintain proper, accurate and complete records and accounts of all transactions relating to the facility. These records shall include, but not limited to, insurance and regulatory inspection reports, records of compostable materials received, safety and accident reports, and the quantity and type of compostable materials processed and sold. These records shall be made available to the City of Mankato, its agents and assigns at all reasonable business hours.

OMG shall prepare and submit written yearly reports to the City of Mankato. Yearly reports are necessary for the State as required by statute. These reports shall include the volume of yard waste materials categorized as leaves/grass and brush collected from the City of Mankato residents and such other data as the City of Mankato reasonably demands.

#### **Section 10 – PAYMENT**

The City of Mankato shall compensate the Contactor monthly for the operation, maintenance, and management of the compost facility as specified in the agreement as follows

| <u>Year</u> | <u>Monthly Payment</u> | <u>Total Annual Cost</u> |
|-------------|------------------------|--------------------------|
| 2017        | \$10,153.22            | \$121,838.64             |
| 2018        | \$10,407.05            | \$124,884.60             |
| 2019        | \$10,667.23            | \$128,006.76             |
| 2020        | \$10,933.91            | \$131,206.93             |
| 2021        | \$11,207.26            | \$134,487.10             |
| 2022        | \$11,487.44            | \$137,849.28             |
| 2023        | \$12,004.37            | \$144,052.44             |
| 2024        | \$12,844.68            | \$154,136.11             |
| 2025        | \$13,486.91            | \$161,842.92             |

All monthly payments will be contingent on receipt of billings prepared by OMG and are due by the 30<sup>th</sup> day after the end of each month. The final installment each year will be contingent on OMG also submitting a complete annual report to the City of Mankato.

In the event of a major storm or other circumstances, the City of Mankato shall be responsible for all residential brush in excess of 3,000 cubic yards collected from City of Mankato residence in any calendar month. The price for this extra service will be gate price charged by OMG for collection of brush on January 1 of the year of the storm occurrence.

#### **Section 11 – ACCESS TO SITE**

OMG agrees to allow the City of Mankato staff or agents access to the site for inspection of the facility, interviewing of OMG staff and interviewing of City of Mankato residents using the facility during normal hours of operation.

#### **Section 12 – LIABILITY**

It is hereby understood and agreed that OMG is an independent contractor and any and all employees of OMG shall not be considered employees of the City of Mankato and that any and all claims that may or might arise under the Workman's' Compensation Act of the State of Minnesota on behalf of said employees while so engaged, and any and all claims made by any third parties as the consequences of any act or omission on the part of said employees while so engaged in any of the work or services to be rendered within the terms of this agreement shall in no way be the obligation or responsibility of the City of Mankato. OMG hereby agrees to indemnify, save, and hold harmless the City of Mankato and all of its agents and employees of and from any and all claims, demands, actions, or causes of action of whatsoever nature or character arising out of or by reason of the premises set forth in this agreement. Further, OMG agrees to defend at its own sole cost the expense and any action or proceeding commenced for the purpose of assert any claim of whatever nature, or whatever character, arising as a result of the terms or conditions set forth in this contractor's agreement.

#### **Section 13 – LIABILITY INSURANCE**

OMG will provide evidence to the City of Mankato that it has liability insurance with limits of not less than \$500,000 per person and \$1,000,000 per incident for claims against the Contractor, the City of Mankato, or employee of either entity arising from acts or omissions of the Contractor or its' employees. The Contractor shall keep this liability insurance in force at all times this agreement is in effect.

#### **Section 14 – ASSIGNMENT**

No part of this agreement may be sold, transferred, assigned or sublet by OMG without the express, written consent of the City of Mankato.

If all, or any portion of the ownership of OMG changes during the period of this agreement, the Contractor is required to provide written notification to the City of Mankato with 30 days of ownership transfer. The City of Mankato will have 90 days from the date of this notice to exercise the sole option of canceling or continuing this agreement.

#### **Section 15 - SEVERABILITY**

The invalidity of any portion of this agreement shall not be deemed to affect the validity of any other provisions. In the event that any provision is held invalid, the parties agree that the provisions shall be deemed in full force and effect as if they had been executed by both parties subsequent to the deletion of the invalid provision.

#### **Section 16 – AMENDMENTS TO THIS AGREEMENT**

The terms and conditions of this agreement may be amended or modified at any time by a written, mutual agreement signed by each part or authorized representative of each party.

#### **Section 17 – CANCELLATION AND TERMINATION**

Either party may terminate this agreement for a material breach of the agreement by the other party after giving written notice of breach and allowing the other party thirty (30) days to correct the breach to the satisfaction of the complaining party.

Except as provided in the paragraph above, this agreement may be canceled by either party only after a thirty (30) day negotiation period and ninety (90) days' notice to the other party.

#### **Section 18 – APPLICABLE LAW**

This agreement is entered into, and governed by, laws of the State of Minnesota.

#### **Section 19 – ENTIRE AGREEMENT**

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

In witness whereof, the parties hereto executed this agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**CITY OF MANKATO**

**OMG Midwest**

X

---

Susan Arntz  
City Manager

X

---

Mitchell Watts  
Southern Area Manager