

City of West Sacramento Agreement No. _____

County of Yolo Agreement No. _____

(Agreement for Organic Waste Composting Services at the Yolo County Central Landfill)

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2022, (“Effective Date”) by and between the County of Yolo (“County”), and the City of West Sacramento (“City”). The County and City are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing landfill space, potential adverse environmental impacts from landfilling including greenhouse gas emissions, and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the California Integrated Waste Management Act of 1989, directed the responsible State agency and all local agencies to promote Disposal Site Diversion and to maximize the use of feasible Solid Waste reduction, reuse, Recycling, and Composting options in order to reduce the amount of Solid Waste that must be landfilled; and

WHEREAS, the Legislature of the State of California, has declared that it is the policy goal under Assembly Bill (AB) 341 that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and Senate Bill (SB) 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025; and

WHEREAS, Statewide, Organic Waste, including both yard waste and food waste, make up approximately 34 percent of the municipal solid waste stream and will need to be diverted from landfill disposal in order to achieve AB 341 and SB 1383 goals; and

WHEREAS, County has contracted with Northern Recycling, LLC (Northern) to finance, construct, and operate a composting and construction, demolition, and inert (CDI) facility and to operate the County’s anaerobic digester cells at the Yolo County Central Landfill (YCCL) where Organic Waste will be processed and sent for composting to the anaerobic digester cells (CF1, defined below) or a composting facility at either an off-site facility (until the new CF2 facility, defined below, is constructed at YCCL) or on-site at the new CF2 facility where Organic Waste will be aerobically composted and finished compost produced; and

WHEREAS, the YCCL currently accepts all of the uncontaminated Organic Waste from the City of West Sacramento for composting; and

WHEREAS, City desires to continue to utilize the County’s organics and composting facilities at the YCCL, and County desires to accept City’s Organic Waste for the compensation to be paid by City’s Hauler to County as established herein; and

WHEREAS, County and City are agreeing to fees and prices based upon the desire to maintain a stable and viable waste management system that maximizes recycling and composting, in turn maximizing diversion of waste from landfill; and

WHEREAS, County and City desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, County and City agree as follows:

AGREEMENT

1. DEFINITIONS

- 1.1 “Acceptable Bags” means Compostable Bags as well as clear (transparent) plastic bags when used to contain Food Waste in Low Quality Food Waste Loads. County shall provide written notification to City indicating that the compost facility can process and remove clear (transparent) plastic bags when it recovers source separated organic waste from Low Quality Food Waste Loads.
- 1.2 “Agricultural Material” means material of plant or animal origin, which results from the production and processing of farm, ranch, agricultural, horticultural, aquacultural, silvicultural, floricultural, vermicultural, or viticultural products, including manures, orchard and vineyard prunings, and crop residues.
- 1.3 “Annual Recovered Organic Waste Product Procurement Target” means the amount of Organic Waste in the form of a Recovered Organic Waste Product that the City is required to procure annually under Title 14 California Code of Regulations Section 18993.1, or successor laws and regulations as may be amended from time to time.
- 1.4 “Biosolids” means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic septage and scum or solids removed in primary, secondary, or advanced wastewater treatment processes. Biosolids includes the residue solids resulting from the co-digestion of anaerobically digestible material with sewage sludge. Biosolids does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during the preliminary treatment of domestic sewage in a treatment works.
- 1.5 “CF1” means the County’s anaerobic composters located at the YCCL.
- 1.6 “CF2” means the aerobic compost facility currently under construction at the YCCL, which will be operated by Northern and which is anticipated to be operational by July 1, 2022.
- 1.7 “Change in Law” means any change in (or any new) laws, ordinances, rules, regulations, orders, judgments, decrees, interpretations, decisions or permit requirements, of or by any federal, state or local governmental entity, after the Effective Date.
- 1.8 “City” means the City of West Sacramento and its employees and agents.
- 1.9 “Commercial” shall mean of, from, or pertaining to non-Residential premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.
- 1.10 “Compost” means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the Municipal Solid Waste stream, or which are separated at a centralized facility, or as otherwise defined in Title 14 California Code of Regulations Section 17896.2(a)(4) or successor laws and regulations as may be amended from time to time.
- 1.11 “Compostable Bags” means bags that meet the specifications of ASTM D6400 sections 5.1 through 6.4.2 standard for compostability as published May 2019.
- 1.12 “Depackager” is a Scott’s T42 Thor, a piece of equipment used to process source separated food waste loads and to separate the organic fraction from contaminants and produce a clean organic product

- 1.13 “Designated Waste” shall have the meaning set forth in Water Code Section 13173, or successor laws and regulations as may be amended from time to time.
- 1.14 “Director” is the County’s Director of Integrated Waste Management or their designee. “Designated Waste” shall have the meaning set forth in Water Code Section 13173, or successor laws and regulations as may be amended from time to time.
- 1.15 “Food Waste” means any material that was acquired or resulting from the production or processing of food for animal or human consumption, but is no longer intended for such consumption, that is separated from the Municipal Solid Waste stream, and that does not meet the definition of “Agricultural Material.” Food Waste may include, without limitation, material food waste from food facilities (as defined in Health and Safety Code sections 113785 and 113789), food processing establishments (as defined in Health and Safety Code section 111955), grocery stores, institutional cafeterias (such as prisons, schools, and hospitals), restaurants, and Residential food scrap collection. Food Waste shall also include meat, dairy, egg, bread, fruit, and vegetable products including all biodegradable culinary products such as compostable utensils, bags, plates, cups, soiled paper and cardboard products, non-aseptic soy/milk cartons, and frozen food paper packages.
- 1.16 “Gate Tipping Fees” for Organic Waste shall be the then current tipping fees of general application as adopted by the Yolo County Board of Supervisors for the YCCL.
- 1.17 “Green Waste” means any vegetative matter resulting from normal yard and landscaping maintenance. Green waste includes plant debris, such as, ivy, grass clippings, leaves, pruning, weeds, branches, brush, non-flocked holiday trees, and other forms of vegetative waste.
- 1.18 “Hauler” shall refer to individual(s), corporation(s), limited liability company, firm, partnership, or any other entity or entities holding a Municipal Solid Waste franchise issued by City for the collection, transportation, and delivery of Organic Waste.
- 1.19 “Hazardous Waste” shall have the meaning set forth in the California Code of Regulations, Title 22, Section 66261.3 et seq., or successor laws and regulations as may be amended from time to time.
- 1.20 “Hazardous Wood Waste” means wood that falls within the definition of “Treated wood” or “Treated wood waste” in California Health & Safety Code Sections 25230.1 and as further described in Section 25230.2, or successor laws and regulations as may be amended from time to time. Hazardous Wood Waste further includes “Wood waste,” as defined in Health & Safety Code Sections 25230.1, or successor laws and regulations as may be amended from time to time, which is hazardous due to the presence of coatings, paint, or other treatments that are not registered in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.) for use as a wood preservative or that is designated to be burned.
- 1.21 “High Quality Food Waste Load” means a food waste load with less than 1% contamination by weight that is not contained in plastic bags and contains no plastic bags.
- 1.22 “Holidays” are defined as New Year’s Day, Easter Sunday, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
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- 1.23 “Household Hazardous Waste” shall have the meaning set forth in California Code of Regulations, Title 14, Section 18502 or successor laws and regulations as may be amended from time to time.

- 1.24 “In-Vessel Digester” means an organics management system at the YCCL consisting of a Depackager, equalization tank and covered pond operated under anaerobic conditions.
- 1.25 “Low Quality Food Waste Load” means a Food Waste load with greater than 5% contamination by weight. Low Quality Food Waste Loads may include Food Waste contained in clear (transparent) plastic bags.
- 1.26 “Material Change in Law” means a Change in Law that (a) results in a documented increase in County’s costs of providing services under this Agreement and (b) relates to any aspect of the solid waste industry (including, for the avoidance of doubt and without limitation, changes to AB 939 or SB 1383, changes to CalRecycle regulations, or changes to other applicable laws relating specifically to any aspect of Organic Waste handling, or Organic Waste disposal,).
- 1.27 “Municipal Solid Waste” or “MSW” shall be as defined by the Federal EPA as “Solid Waste” under Section 243.101(y) of the Code of Federal Regulations, Title 40, Part 243 (40 C.F.R. Part 243) or successor laws and regulations as may be amended from time to time.
- 1.28 “Organic Waste” means Food Waste, Green Waste, Yard Waste, and other solid wastes containing material originated from living organisms and their metabolic waste as defined in California Code of Regulations, Title 14, Section 18982(a)(46) or successor laws and regulations as may be amended from time to time.
- 1.29 “Organic Waste Product Procurement Fee” means the per ton fee for compost that is reserved for the City to satisfy their Annual Recovered Organic Waste Product Procurement Target.
- 1.30 “Physical Contaminants” means human-made inert material contained within Organic Waste, including, but not limited to: glass, metal, hard plastic, and film plastic, Hazardous Wood, Waste, Universal Waste, as well as “prohibited container contaminants” as defined in Title 14, California Code of Regulations, Section 18502(a)(55) or successor laws and regulations as may be amended from time to time.
- 1.31 “Physical Contamination and Sorting Fee” means an additional sorting fee per ton for loads of Organic Waste hauled by City’s Hauler that contains Physical Contaminants exceeding five percent (5%) by wet weight.
- 1.32 “Recovered Organic Waste Products” means products made from California landfill-diverted recovered Organic Waste processed at a permitted or otherwise authorized operation or facility, or as otherwise defined in California Code of Regulations, Title 14, Section 18982(a)(60) or successor laws and regulations as may be amended from time to time.
- 1.33 “Residential” shall mean of, from, or pertaining to single-family homes, apartments, condominiums, townhouse complexes, mobile home parks, cooperative apartments, and yacht harbors and marinas where residents live aboard boats.
- 1.34 “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, as may be amended, supplemented, superseded, and replaced from time to time.
- 1.35 “Source Separated Organic Waste” means Organic Waste that is placed in a container that is specifically intended for the separate collection of Organic Waste by the City or its Hauler.

- 1.36 "Special Handling Fee" means a fee charged for each rejected Organic Waste load for the cleanup, removal, and appropriate disposal or processing of any and all Unacceptable Waste.
- 1.37 "Tipping Fees" shall be as shown in Section 5.
- 1.38 "Unacceptable Waste" means Physical Contaminants, Hazardous Waste, Household Hazardous Waste, Designated Waste, Hazardous Wood Waste, Universal Waste, MSW containing animals, stumps and logs greater than 8 inches in diameter, and any waste that is designated as unacceptable under the composting facility portion of the County's Solid Waste Facility Permit for the YCCL.
- 1.39 "Universal Waste" means waste that is listed in Section 66261.9 of Division 4.5 of Title 22 of the California Code of Regulations as "universal waste," or successor laws and regulations as may be amended from time to time, including but not limited to batteries, fluorescent bulbs, thermostats, electronic devices, mercury devices and non-empty aerosol cans.
- 1.40 "Yard Trimmings" means any wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds.
- 1.41 "Yard Waste" means that portion of Organic Waste that includes, but is not limited to, Yard Trimmings, grass, weeds, leaves, pruning, branches, dead plants, sod, clay flower pots, brush, tree trimmings, wood, sawdust/wood shavings, animal bedding (natural fiber), vegetative Food Waste, vegetative food material, wood (excluding Hazardous Wood Waste), dead trees, natural fiber products, palm fronds and Agricultural Material, excluding Unacceptable Waste. Yard Waste does not include Unacceptable Waste, Biosolids, Yard Waste mixed with solid waste, material processed from commingled collection, wood containing lead-based paint or wood preservative, mixed construction, or mixed demolition debris.
- 1.42 "YCCL" or "Site" means the Yolo County Central Landfill.

2. TERM

- 2.1 This Agreement shall commence on the Effective Date and shall end on June 30, 2027. The Parties may extend the term of this Agreement by mutual written agreement for any additional period of time as long as County continues to receive all of the Organic Waste collected by City's Hauler within the City's incorporated limits.
- 2.2 Should either Party fail to substantially perform its obligations in accordance with this Agreement, the other Party may notify the defaulting Party of such default in writing and provide not less than thirty (30) calendar days to cure the default. Such notice shall describe the default and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within said thirty-day period, (or such longer period as is specified in the notice or agreed to by the Parties), then the Party that gave notice of default may terminate this Agreement upon not less than one hundred eighty (180) calendar days advance written notice.
- 2.3 Termination of this Agreement shall not bar the City or City's Hauler from using YCCL for Organic Waste at the then current Gate Tipping Fees, provided sufficient capacity exists at YCCL to accommodate City or City's Hauler.

3. NOTICE

- 3.1 Any notice, demand, request, consent, or approval that either Party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be deemed received either when personally delivered or three calendar days after mailed by certified or registered U.S. Mail, postage prepaid, or the day after deposit with a nationally recognized overnight courier service, addressed as follows:

TO COUNTY:

County of Yolo
Department of Community Services
Division of Integrated Waste Management
Attn: Ramin Yazdani, Director
44090 County Road 28H
Woodland, CA 95776

TO CITY:

City of West Sacramento
1110 West Capitol Avenue, Third Floor
West Sacramento, CA 95691
Attn: Aaron Laurel, City Manager

CC: Environmental Services and Sustainability Manager

- 3.2 Either Party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other Party, which shall be effective upon receipt.

4. SCOPE OF SERVICES

- 4.1 Commencement of Services. Services under this Agreement shall commence upon the date each party provides the other party with the evidence of insurance required by this Agreement.

- 4.2 Acceptance of Organic Waste. County shall accept the City's Organic Waste, subject to the following requirements:

- A. City shall cause its Hauler to develop Residential mixed Organic Waste collection routes accepting both Yard Waste and Food Waste from City customers in one Organic Waste collection container separate from the existing Municipal Solid Waste and recycling collection containers and routes by January 1, 2021.
- B. City shall cause its Hauler to deliver all Source Separated Organic Waste, such as Green Waste and Food Waste, as well as mixed Organic Waste, that the Hauler collects from within City's incorporated limits in Yolo County to the YCCL, except as otherwise provided herein. County shall process loads of Organic Waste brought by the City's Hauler at the YCCL's Organic Processing Facilities, which are the anaerobic composters (CF1), the In-Vessel Digester (including the Depackager), and/or the aerobic compost facility (CF2).
- C. As long as City causes its Hauler to deliver all Source Separated Organic Waste, as well as mixed Organic Waste, that they collect from within City's incorporated limits in Yolo County to the YCCL; and except as otherwise provided herein, County shall accept all the Organic Waste brought to the YCCL from the City and/or the City's Hauler up to 24,500 tons of Organic Waste from City every

calendar year. County will consider additional tonnage annually based on Site capacity.

- D. County shall accept, process, and produce Compost from Source Separated and mixed Organic Waste as authorized by the County at YCCL according to the State of California minimum standards for composting operations, the County's standard solid waste landfill practices, and the terms and conditions of the solid waste facility permits issued by the local enforcement agency for YCCL, so as to achieve maximum diversion credit for Organic Waste delivered to YCCL.
- E. County shall accept Organic Waste during YCCL business hours, as they may change from time to time by direction of the County Board of Supervisors, only and not during Holidays.
- F. County shall provide City with quarterly reports showing the tonnage of all Organic Waste delivered to the YCCL, which compost facility they were processed in, any residual tonnage, and the number, type, tonnage, and destination of any rejected loads during that reporting period. Quarterly reports will provide the average residual content from all Organic Waste received at the facility from all sources. Once per year in January, a sort of 200 lbs. sample of one as-received load from the City will be conducted by County or Northern and the residual content will be reported in the Quarterly Report. This annual sampling will be at no additional charge to City or City's Hauler. Additional sampling may be conducted for an additional charge if requested by City. City and County shall prepare an amendment to this Agreement regarding the frequency and charge for such additional samplings if such additional service is requested by City. Quarterly Reports will include an estimate of how much Organic Waste Product was produced from the City's Organic Waste, and this estimate will be based on proportionality considering the total amount of Compost produced and the feedstock delivered from the City relative to total feedstock received. Quarterly Reports will include how much Compost was taken by City residents under Section 4.6, and quantities, types, and all other associated information pertaining to how the City's Recovered Organic Waste Products Target is being met by County organics facilities during that reporting period. Compost will be tracked by volume and converted to weight using a bulk density conversion of 1000 pounds per cubic yard. Reports must include other data as required by the State for purposes of reporting the City's diversion of waste and implementation and recordkeeping requirements of AB 939 (Public Resources Code §§ 40000 et seq.), AB 341, AB 1826, SB 1383 and any future State diversion requirements. Quarterly reports shall be provided to City no later than the 45th day following the end of each calendar quarter. Said information shall be provided by County in a format mutually agreed upon by County and City. County shall maintain books and records of all financial transactions made pursuant to this Agreement. Such records shall be made available to the City at any time during business hours upon reasonable demand.
- G. Acceptable Bags will be accepted in organics loads delivered to the County's compost facilities. Plastic bags are considered contamination, except that both Compostable Bags and clear (transparent) plastic bags are accepted in Low Quality Food Waste Loads. All other plastic bags are prohibited and considered contamination.
- H. County shall use best efforts to process and remove clear (transparent) plastic bags from Low Quality Food Waste Loads during the composting process, pursuant to Title 14 Section 18984.1 of the California Code of Regulations. By the 15th day of the month when this document is signed of every year of this

agreement, County must provide City written notification indicating that its facilities can process and remove clear (transparent) plastic bags from Low Quality Food Waste Loads during the composting process, pursuant to Title 14 Section 18984.1 of the California Code of Regulations.

4.3 Rejection of Waste.

- A. City's Hauler shall not deliver any waste required to be disposed of in a Class I landfill as defined in Title 23, section 2531 of the California Code of Regulations or a Class II landfill as defined in Title 27, section 20250 of the California Code of Regulations, to any of the County's compost facilities, and County may reject any such waste.
- B. County may also reject any of the following if included in an Organics Waste load:
 - (i) any Unacceptable Waste,
 - (ii) any Designated Waste;
 - (iii) any MSW;
 - (iv) any Organic Waste loads delivered to any of the County's compost facilities containing 5% or more Physical Contamination by wet weight as further described in Section 4.4.C of this Agreement, or
 - (v) any other waste as determined to be rejected by the Director in his/her sole discretion.
- C. City's Hauler shall be responsible to County for payment of applicable Special Handling Fees and/or Sorting Fees and related costs or fees for each rejected City load pursuant to Section 5.1 of this Agreement for the cleanup and removal of any and all Unacceptable Waste or other waste rejected by the County pursuant to this Section 4.3. Fees and charges for rejected loads, including the Special Handling Fee, shall be invoiced and paid pursuant to Section 5.4 of this Agreement.

4.4 Organic Waste Services, City and County Responsibilities

- A. Tipping Sites and Tonnage. Except as hereinafter provided, City shall cause its Hauler to deliver all Organic Waste, within the limits established herein, to the Yolo County Central Landfill at 44090 County Road 28H, Woodland, CA.
- B. Weighing of Deliveries. City Hauler's Organic Waste delivery vehicles shall be weighed on County scales when arriving at YCCL. County shall provide City's Hauler with written or verbal instructions regarding the operation of the scale system, and City's Hauler shall ensure that its drivers follow the same.
- C. Physical Contamination. All City loads shall be visually inspected by County when being unloaded at the YCCL tipping facility. Sorters will hand sort Physical Contaminants from the loads as needed. When a load is received that visually appears to have excessive Physical Contaminants, the sorters will take photos of the load, truck, and weight ticket. The load will be segregated from other loads and then all contamination will be sorted out of the load and weighed across the scale to determine the contamination rate. The City's Hauler shall pay an additional sorting fee (see Section 5.1.E) for loads of Organic Waste material hauled by City that exceed contamination levels of five percent (5%) by weight and that will be processed, unless the load is rejected. Photos of the load, truck, weight ticket, the weight of the Physical Contaminants and information about the load (date, time, vehicle ID, % contamination, etc.) shall be sent to the City and

the City's hauler within 72 hours. If the contamination level exceeds 5% by wet weight, then County shall have the right to determine, at its sole discretion, whether to charge the Physical Contamination and sorting fee as described in Section 5.1E, or to reject the load as described in Section 5.1.F.

- D. High Quality Food Waste Loads. County shall have the right to determine if Food Waste loads from certain collection routes meet the criteria for High Quality Food Waste Loads and to pre-authorize loads from that collection route to be considered High Quality Food Waste Loads. City's Hauler may contact the County to request that Food Waste loads be inspected for consideration as High Quality Food Waste Loads and must notify the County in writing that loads from that collection route will consistently meet the criteria of less than 1% contamination. Food Waste loads will not be considered High Quality Food Waste Loads unless they are pre-authorized by the County. County reserves the right to revoke the High Quality Food Waste Load designation if sorting and weighing the load as described in Section 4.4.C results in a Physical Contamination greater than 1%.
- E. Hazardous Waste Prohibited. The City agrees that its Hauler shall not deliver any Hazardous Waste, Universal Waste, or Hazardous Wood Waste in any load and shall cause Hauler to comply with this probation. Any such prohibited material delivered will be removed by sorters as part of the County's load check system. Any such material delivered in City loads will be removed by sorters as part of the County's load check system, documented and conveyed to City's Hauler. All actual costs for proper disposal and/or recycling of such material will be passed along to the City's Hauler, who will promptly reimburse the County for such costs (see Section 5.1).
- 4.5 County's Right to Deny Access. County shall have the right to immediately deny access to the YCCL to any employee or subcontractor of City (including Hauler) who fails in County's reasonable judgment to meet standards of conduct customary in the solid waste landfill industry, and in the event County exercises such right, County shall provide written notification thereof to the City (including Hauler) as soon after the denial as is reasonable, but in no event after more than five (5) calendar days.
- 4.6 Provision of Recovered Organic Waste Products.
Beginning January 1, 2022, SB 1383 regulations (14 California Code of Regulations Section 18993.1) require that the City procure Recovered Organic Waste Products, with a minimum Annual Recovered Organic Waste Procurement Target based on the City's population, which will be recalculated every 5 years. The City may meet their recovered Organic Waste Product Procurement Target requirement through procurement of Compost, Renewable Natural Gas (RNG), Mulch, or electricity from biomass, subject to certain limitations.
- A. Compost for City Residents. Following the commencement of operations of the aerobic compost facility (CF2), County's CF2 operator will deliver free Compost twice annually (100 cubic yards/event) for the City to a mutually agreed upon location and date within the City limits or at the YCCL. City shall coordinate the delivery of compost at least 40 calendar days in advance of the delivery date. Following the commencement of operations of the aerobic compost facility (CF2), City and residents, local landscaping companies and other businesses may also purchase Compost at the YCCL. Other recycled commodities, such as bark, mulch, wood chips, and gravel may also be available for sale to the general public.
- B. Recovered Organic Waste Product Procurement. City and local landscaping companies and other businesses may also purchase compost at the YCCL. Other

recycled commodities, such as bark, mulch, wood chips, and gravel may also be available for sale to the general public. If requested in writing by the City, County's CF2 operator shall reserve the required amount of Recovered Organic Waste Product as stipulated by the Annual Recovered Organic Waste Procurement Target requirement. County shall submit an invoice to the City for the entire amount of reserved Annual Recovered Organic Waste Product at the then-current per ton rate pursuant to Sections 5.1.D and 5.2 of this Agreement. Following County's receipt of payment, County's CF2 operator shall reserve the requested amount of Organic Waste Product for the City. Reserved Organic Waste Product will be available for City or City's Contractors to pick up at the CF2 facility. Loading of Recovered Organic Waste Product will be provided by the CF2 Operator.

4.7 This section is intentionally left blank.

4.8 No Delivery to Closed Landfill. Notwithstanding Section 4.2(A) or any other provision of this Agreement to the contrary, neither City nor Hauler shall be in violation of this Agreement for sending or delivering Organic Waste to any facility other than YCCL during periods when YCCL is closed, not accepting waste, or does not hold all permits and approvals required to operate and accept these materials.

5. **TIPPING FEES, INVOICING, AND PAYMENTS**

5.1 Organic Waste Tipping Fees & Rejected Waste Fees

City shall require Hauler to pay County the Tipping Fee for all Organic Waste delivered pursuant to this Agreement as provided in this Section 5. County will submit all billing for Organic Waste services based on County scale records of Hauler's deliveries, less vehicle tare weights.

- A. On the Effective Date, the contracted rate per ton of Organic Waste delivered to YCCL shall be \$72.67 per ton.
- B. High Quality Food Waste Loads. On the Effective Date, the contracted rate of High Quality Food Waste delivered to YCCL shall be \$67.67 per ton.
- C. Low Quality Food Waste Loads. On the Effective Date, the contracted rate of Low Quality Food Waste delivered to YCCL shall be \$92.67 per ton.
- D. Organic Waste Product Procurement Fee. On the Effective Date, the Organic Waste Product Procurement Fee (not including delivery cost) of bulk compost or mulch shall be \$13 per ton.
- E. Physical Contamination and Sorting Fee. On the Effective Date, the City's Hauler shall pay an additional sorting fee of \$10.00 per ton for loads of Organic Waste hauled by City's Hauler that exceed Physical Contamination levels of five percent (5%) by wet weight.
- F. Disposal of Physical Contaminated Organic Waste and Special Handling Fee. In the event delivery load(s) are determined by the County to be contaminated as provided under Section 4.4C of this Agreement and County is unable to process these loads, City's Hauler shall be credited the per ton Tipping Fee of the Unacceptable Waste and shall pay County the current tip fee for MSW disposal under the City and County Agreement and not receive any diversion. Additionally, during the Term of this Agreement, City's Hauler shall be solely responsible to County for payment of special handling costs for each reject load of \$150 per load for the cleanup and removal of any and all Unacceptable Waste. To the extent that County rejects waste under Section 4.3.B(v) of this Agreement and the acceptance of such waste would not have been inconsistent with this Agreement and would not have violated any applicable state or federal law or regulation, County shall only pay for any costs

above the charges applicable under the City and County's Agreement for Waste Disposal Services at the YCCL (Agreement No. 09-120) to dispose of such waste at another facility.

- G. Hazardous Waste Fees. As set forth in Section 4.4.E of this Agreement, Hauler shall not deliver any Hazardous Waste, Universal Waste, or Hazardous Wood Waste in any load to the YCCL. If such prohibited waste is discovered, all actual costs incurred by the County for proper disposal and/or recycling of such prohibited material will be charged to the City's Hauler on the monthly invoices pursuant to Section 5.4 of this Agreement, provided that the City will be responsible for this charge if the City's Hauler fails to reimburse the County for such costs as provided in Section 5.4.C. herein.

5.2 CPI Adjustment & Material Change in Law or Extraordinary Event Adjustment.

- A. CPI for Base Year. When used herein, "CPI" shall be the "Northern California All Urban Consumers" Consumer Price Index (CPI-U)– All Urban Consumers, San Francisco – Oakland – Hayward, CA, All items (1982- 84=100), Not Seasonally Adjusted, compiled and published by the United States Department of Labor, Bureau of Labor Statistics and can be viewed at: <https://data.bls.gov/timeseries/CUURS49BSA0>. "Base Year" shall refer to (CPI) value for April 2021.
- B. First CPI Adjustment. Effective July 1, 2022, all fees and charges specified in Section 5.1 of this Agreement, including the Tipping Fees, Physical Contamination and Sorting Fee, Special Handling Fee and Organic Waste Product Procurement Fee, shall be adjusted by an amount equal to 100% of the increase in the CPI value from the Base Year to April 2021. If the CPI is zero or less than zero, then there would be no adjustment to the fees and charges for that fiscal year.
- C. Subsequent Annual CPI Adjustments. Effective July 1, 2023 and each July 1 thereafter, the previous year's all fees and charges specified in Section 5.1 shall be adjusted by an amount equal to 100% of the increase in the CPI value from the Base Year to April of the current year period. If the CPI is zero or less than zero, then there would be no adjustment to the fees or charges for that fiscal year.
- D. Material Change in Law or Extraordinary Event Adjustment. The County may seek an increase of any or all of the fees identified in Section 5.1 (Tipping Fees) of this Agreement during the Term of this Agreement, in addition to the CPI adjustments provided for in Sections 5.2.A-C of this Agreement, if the County reasonably determines that a Material Change in Law or other extraordinary event, including but not limited to a Force Majeure event as defined in Section 11, will result in a material change in the County's total YCCL operating costs or revenues related to the processing of Organic Waste or Compost, or a combination thereof.
1. County shall specify in writing to City the Material Change in Law or other event or circumstance necessitating the Tipping Fee increase above CPI, County's reasonable additional costs arising from or related to same, and the change in the Tipping Fee that the County proposes to cover such additional costs. County shall use its best efforts to consider offsetting effects of other events or trends on YCCL operating expenses and revenues prior to seeking a Tipping Fee adjustment pursuant to this Section 5.2.D.
 2. County shall specify whether a Material Change in Law or other extraordinary event necessitating an increase in Tipping fees is anticipated to be a permanent or temporary increase, and if temporary,

shall specify the conditions and criteria to determine when the Tipping Fee would be reevaluated.

3. County will calculate the increases in the Tipping Fees or the amounts of any new fees that County believes are necessitated by such Material Change in Law or extraordinary event and notify City of such proposed increases not less than sixty (60) calendar days before the proposed effective date thereof.
4. City shall respond in writing to County within 15 calendar days of receiving a notice from the County regarding a proposed Tipping Fee pursuant to this Section 5.2.D if City desires to confer with County regarding the proposed increase. Failure by City to timely respond in writing to the County's notice shall be deemed a consent to the Tipping Fee increase on the proposed effective date. If City sends a timely written response and requests to confer with County, the Parties shall confer in good faith regarding the proposed Tipping Fee increase, including the reason and basis thereof, at least ten (10) calendar days prior to the proposed effective date of the Tipping Fee increase. City shall not unreasonably withhold its consent for such proposed Tipping Fee increases.
5. Any Tipping Fee increase pursuant to this Section 5.2.D shall be done in compliance with Federal, State and Local law, and City shall receive all legally required procedural notices, if any.

5.3 Vehicle Tare Weights.

City agrees that its Hauler's collection vehicles shall have a tare weight established using the certified scale at the YCCL Facility, using the average of five measurements to set that particular collection vehicle's tare weight. The tare weight will be verified or reestablished for each City Hauler's collection vehicle at least once a year. Collection vehicles exceeding the established tare weight shall be prohibited from entering and utilizing the YCCL.

5.4 Monthly Invoicing.

- A. County will submit a monthly statement to Hauler during the first week of each month for Organic Waste deliveries made by Hauler on behalf of City to YCCL and for any other applicable charges.
- B. City shall use reasonable best efforts to cause Hauler to pay County within thirty (30) calendar days of County's transmittal of the monthly statement.
- C. Delinquent Account. Hauler's account shall be delinquent if full payment of the monthly statement is not received by County within 30 days from the date of statement and said account shall remain delinquent until full and current payment is received by County. County shall promptly notify the City if Hauler's invoice is delinquent and provide the City 90 days in which to pay the delinquency. Delinquent accounts accrue late charges and/or interest in accordance with Hauler's landfill account. An accounting of Hauler's landfill account with reference to delinquent payments shall be provided by the County to ensure full cost recovery is achieved by the City. City shall be responsible for payment of any delinquency that exceeds 90 calendar days. In the event that payment is not received within 90 calendar days, County may cease to accept Organic Waste delivered by the City's Hauler.

- D. Invoice Format and Content. County's statements shall follow the format and content of the County's WasteWORKS scale software system or similar.

6. APPLICABLE LAW

- 6.1 In the performance of the services required by this Agreement, City and County shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives and laws, and City shall require Hauler to so comply. This Agreement is also subject to any additional restrictions or conditions that may be imposed upon the County by the Federal or State governments.
- 6.2 This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Yolo County, California. The Parties hereby waive any venue or removal rights they might have under State or Federal law.

7. LICENSES AND PERMITS

The Parties shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, County of Yolo and all other appropriate governmental agencies, including any certification and credentials required by County, as applicable. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by the other Party pursuant to Section 2.

8. INDEMNIFICATION

- 8.1 To the extent authorized by law, City shall indemnify, defend, and hold harmless County, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, to the extent arising out of or resulting from City's breach of this Agreement or any willful misconduct or negligent acts or omissions of City, its employees, and/or agents, including City's Hauler.
- 8.2 To the extent authorized by law, County shall indemnify, defend, and hold harmless City, its City Council Members, its officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, to the extent arising out of or resulting from County's breach of this Agreement or any willful misconduct or negligent acts or omissions of County, its employees, and/or agents.

9. INSURANCE

- 9.1 During the term of this Agreement, County and City shall at all times maintain, at their respective expense, the following coverages and requirements, provided that City may require Hauler to furnish such insurance coverage in lieu of City providing such insurance. The commercial general liability insurance shall include broad form property damage insurance.

- A. Minimum Coverages (as applicable). Insurance coverage shall be with limits not less than the following:

1. **Commercial General Liability** – \$1,000,000/occurrence and \$2,000,000/aggregate

2. **Automobile Liability** – \$1,000,000/occurrence bodily injury and \$500,000/occurrence property damages (include coverage for Hired and Non-owned vehicles)
 3. **Excess /Umbrella Liability** – \$3,000,000 per occurrence
 4. **Pollution Liability** – \$3,000,000 per occurrence [**Note: This is intended to cover spills of materials that occur in transit, not any contamination at the landfill. If you cannot obtain such insurance, we will work with you to substitute acceptable indemnity language in place of this requirement.**]
 5. **Workers' Compensation** – Statutory Limits/**Employers' Liability** - \$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)
- B. The County, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation coverage provided by the City or Hauler. The City, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers' compensation coverage provided by the County. (Evidence of additional insured may be needed as a separate endorsement due to wording on the certificate negating any additional writing in the description box.)
- C. Said policies shall remain in force through the life of this Agreement and, with the exception of pollution liability coverage, shall be payable on a "per occurrence" basis unless the County Risk Manager or City Risk Manager specifically consents in writing to a "claims made" basis for policies to be provided by the other party. For all "claims made" coverage, in the event that the City or County changes insurance carriers City or County shall purchase "tail" coverage covering the term of this Agreement and not less than three years thereafter if the Retroactive Date of the replacement claims made policy has been advanced. City and County further agree that tail coverage will be purchased upon the termination of this Agreement for a period of not less than three (3) years commencing with the termination date of this Agreement. Proof of such "tail" coverage shall be required at any time that the City or County changes to a new carrier or upon termination of this Agreement prior to receipt of any payments due.
- Upon City's or County's request, the County or City agrees to provide a "claim polling letter" signed by the Director, County Risk Manager or other County designee for the County, or Public Works Director, City Risk Manager, or other City designee for the City, stating whether he/she is then presently aware of any pending claim or incident caused by the City or County for which the County or City intends to seek indemnification from the other party.
- D. The City and County shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the County's Risk Manager and City's Risk Manager reserve the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.
- E. Any deductibles or self-insured retentions in excess of twenty-five thousand dollars (\$25,000) must be declared to and are subject to the approval of the County Risk Manager and City Risk Manager.
- F. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either Party, reduced in coverage or in limits except after thirty (30) calendar days' prior written notice by certified mail, return

receipt requested, has been given to the Director or City's Public Works Director (ten (10) calendar days for delinquent insurance premium payments).

- G. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:-VII, unless otherwise approved by the County Risk Manager or City Risk Manager.
 - H. The policies shall cover all activities of City or County, and its officers, employees, agents and volunteers arising out of or in connection with this Agreement.
 - I. The City and County shall respectively waive all rights of subrogation against the other party and, its officers, employees, agents and volunteers.
- 9.2 Prior to commencing services pursuant to this Agreement, City shall furnish the Director, and County shall furnish City's Public Works Director, with original endorsements reflecting coverage required by this Agreement, whether such coverage is being furnished by City or by Hauler. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the County Risk Manager and City Risk Manager before work commences.
- A. Upon Director's request, City shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications, or shall require Hauler to do so.
 - B. Upon City's Public Works Director's request, County shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.
- 9.3 During the term of this Agreement, City shall furnish the Director, and County shall furnish City's Public Works Director, with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement, or shall require Hauler to do so. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon Director's request, City shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications, or shall require Hauler to do so. Upon City's Public Works Director's request, County shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

10. CONFLICT OF INTEREST

City and County shall respectively comply with the laws and regulations of the State of California and County and City regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.

11. FORCE MAJEURE

Neither Party shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, infectious disease outbreaks, riots, acts of war, epidemics, pandemics, acts of government, flood, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

12. SUBCONTRACTS, ASSIGNMENT

The services and obligations provided to and/or required of City and County under this Agreement are not assignable in whole or in part, except as otherwise provided herein. Notwithstanding the above, use of YCCL by the City's Hauler shall not constitute an assignment of this Agreement, nor will County's use of a contractor for operation of its compost facilities constitute an assignment of this agreement.

13. AMENDMENT

This Agreement may be amended only by written instrument signed by the County and City; provided, however, that the Parties agree to amend this Agreement as necessary to reflect any changes to State, Federal, or local laws and regulations.

14. WAIVER

The waiver by either Party or any of its officers, agents, or employees or the failure of either Party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement by that Party.

15. SUCCESSORS

This Agreement shall bind the successors and assign of County and City in the same manner as if they were expressly named.

16. AUTHORIZED REPRESENTATIVE

The person executing this Agreement on behalf of either Party affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of that Party and to bind that Party to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of a Party and that Party understand that the other Party is relying on this representation in entering into this Agreement.

17. PUBLIC RECORDS ACT

Upon its execution, this Agreement shall be subject to disclosure pursuant to the California Public Records Act.

18. ADDITIONAL PROVISIONS

- 18.1 Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should a Party choose to excuse any given failure of the other Party to meet any given condition, covenant or obligation (whether precedent or subsequent), that decision will not be, or have the legal effect of, a waiver of the legal effect in subsequent circumstances of either that condition, covenant or obligation or any other found in this document. All conditions, covenants and obligations continue to apply no matter how often a Party may choose to excuse the failure of the other Party to perform them.
- 18.2 Except where specifically stated otherwise in this document, the promises in this document benefit the County and City only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or nonperformance of this Agreement, nor do the Parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

19. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the County and City and supersedes all prior negotiations, representations, or agreements, whether written or oral, regarding the subject matter of the Agreement. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any Party to this Agreement.

20. DUPLICATE COUNTERPARTS


This Agreement may be executed in counterparts. The Agreement shall be deemed executed when it has been signed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

CITY OF WEST SACRAMENTO

DocuSigned by:
By: 
Aaron Laurel, City Manager

Date: 6/6/2022 | 9:57:38 PM PDT

Attest: DocuSigned by:
By:  6/7/2022 | 8:51:06 AM PDT
Jennifer Cusmir, City Clerk

COUNTY OF YOLO

By: _____
Angel Barajas, Chair
Board of Supervisors

Date: _____

Attest:
By: _____
Julie Dachtler, Senior Deputy Clerk
Board of Supervisors

Approved as to Form:

DocuSigned by:
By: 
Jeffrey Mitchell, City Attorney

Approved as to Form:
Philip J. Pogledich, County Counsel

By: _____
Kimberly Hood, Assistant County Counsel