

Sonoma

ORIGINAL

**SIXTH AMENDMENT TO AGREEMENT FOR ORGANIC MATERIAL
PROCESSING, COMPOSTING AND MARKETING SERVICES WITH THE
SONOMA COMPOST COMPANY**

This Sixth Amendment to Agreement for Organic Material Processing, Composting and Marketing Services ("Amendment") dated as of, 2008 ("Sixth Amendment Effective Date"), is by and among the Sonoma County Waste Management Agency ("Agency"), a joint powers agency, the Sonoma Compost Company ("Contractor"), and the County of Sonoma ("County"). All capitalized terms used herein shall, unless otherwise defined, have the meaning ascribed to those terms in the existing agreement, as amended.

WHEREAS, Agency, County and Contractor entered into that certain Organic Material Processing, Composting and Marketing Services Agreement dated as of September 28, 1999 (hereinafter referred to as the "Original Agreement") in order to provide composting services for the Agency for yard debris and wood waste and marketing the finished products; and

WHEREAS, Agency, Contractor and County entered into that certain First Amendment to Agreement dated as of July 11, 2000 ("the First Amendment A") to: (a) modify Exhibit A to relocate the office and retail sales area; (b) provide for improvements to the working surface; (c) modify a termination provision; and (d) modify Exhibit B; and

WHEREAS, Agency and Contractor entered into that certain Amendment erroneously titled First Amendment to Agreement dated as of February 20, 2002 (the "First Amendment B") to (a) identify new finished products (Specialty Products) and (b) set revenue allocation or sharing methods for these products; and

WHEREAS, Agency, Contractor and County entered into that certain Second Amendment dated March 23, 2004 (the "Second Amendment") to: (a) increase the fees paid to Contractor for processing wood waste; (b) ratify the First Amendment; and (c) revise certain other terms; and

WHEREAS, Agency, Contractor and County entered into that certain Third Amendment to Agreement dated as of April 27, 2004 (the "Third Amendment") in order to: (a) extend the term to November 15, 2010; (b) allow County to relocate the Facility if needed; (c) allow Contractor to expand the area of the Facility by approximately three (3) acres in the event the Facility is not relocated; and (d) revise certain other terms; and

WHEREAS, Agency, Contractor and County entered into that certain Fourth Amendment to Agreement dated as of July 20, 2004 (the "Fourth Amendment") in order to add Article 2, Section 2.7, Prevailing Wages as defined in Section 1720(a) of the Labor Code; and

WHEREAS, Agency, Contractor and County entered into that certain Fifth Amendment to Agreement dated as of July 12, 2004 (the "Fifth Amendment") in order to include pricing and language to allow Contractor to grind non-recyclable construction and demolition debris, and to establish a payment mechanism to partially reimburse Agency for transportation of yard debris and wood waste from the transfer stations to the Central Disposal Site; collectively the Original Agreement as modified by the First Amendment A & B, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment is referred to herein as the "Agreement").

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

A G R E E M E N T

1. Section 1, DEFINITIONS, shall be amended in part to read as follows and have the meaning set forth below:

“Prepared Yard Debris.’ Prepared Yard Debris shall mean green plant debris including grass clippings, leaves, prunings, weeds, branches, brush, portions of wood and other forms of organic waste generated from landscapes and gardens. Prepared Yard Debris shall be processed through a grinder to reduce the delivered yard debris to particles and then shall be passed through a screen to remove foreign material (non-organic) contaminants and producing an average particle size mutually agreeable for use by the City of Santa Rosa as a bulking agent for composting the biosolids remaining after treatment of sewage.”

2. Section 2.1.4 shall be amended to read as follows:

“2.1.4 Processing Delivery Materials to the Santa Rosa Laguna Subregional Compost Facility (“Laguna Facility”). Contractor shall process incoming materials into Prepared Yard Debris per the Amendment to the Revised Organics Material Processing and Composting Services Agreement By and Among the Sonoma County Waste Management Agency, the City of Santa Rosa and Sonoma Compost Company, at least two hundred fifty (200) tons per week on average.”

3. Section 4.1 shall be amended to read as follows:

“4.1 Compensation. Contractor shall be paid for its services in accordance with the payment matrix which is attached hereto as Exhibit C-2 (hereinafter referred to as the “Payment Matrix”). The applicable rate to use from the Payment Matrix to determine the amount of compensation depends upon the amount of materials received at the Facility each month. Agency shall pay Contractor within twenty five (25) days of receiving an invoice from Contractor in accordance with Section 10.2 below.”

4. Section 4.1.1 shall be amended to read as follows:

“4.1.1 Compensation for Yard Debris. Where Agency has not notified Contractor in writing as to Agency’ s desire to trigger a particular price rate for Yard Debris based on an expected volume of Yard Debris, Agency shall pay the rate identified for minimum tonnage of Yard Debris times the actual volume of Yard Debris delivered to the Facility. Agency may take advantage of the lower rates in the Payment Matrix by notifying Contractor that Agency expects that the Facility will receive more than 175 TPD of Yard Debris. By so notifying Contractor, Agency will be required to pay for the minimum amount of Yard Debris anticipated in the notice, notwithstanding that the Facility may not receive the minimum expected volume during such period. In addition, the parties hereby acknowledge that Contractor will be required to invest in certain capital equipment in the event that the Agency gives notice to

Contractor that it expects that the Facility will receive more than 175 TPD of Yard Debris. Therefore, upon such notification by Agency, Contractor will be required to complete Facility improvements to increase peak throughput capacity to 400 TPD, or a throughput capacity otherwise acceptable to Agency, within one hundred twenty (120) days and Agency will be required to compensate Contractor for a minimum 175 TPD per day of Yard Debris following notification and demonstration to Agency that necessary improvements have been completed. Once the necessary improvements have been made, the compensation for the remainder of the term of this Agreement shall be based on a volume of Yard Debris in excess of 175 TPD, at a minimum, regardless of the actual volume of Yard Debris received at the Facility; provided, however, that if the actual volume of Yard Debris delivered to the Facility, or the actual volume processed, is less than 175 TPD due to a third party regulator restricting the amount of materials to be processed at the Facility, then compensation shall be based on the actual volume of materials that are processed.”

5. The following new subsection shall be added to Article 19 of the Agreement:

“19.1.3 Assignment by County. At its sole discretion, County may assign all of its rights and obligations under this Agreement.”

6. Except to the extent the Agreement is specifically amended or supplemented hereby, the Agreement together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Agreement or any right of Agency arising thereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment as of the Effective Date.

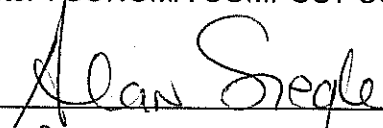
"Agency": SONOMA COUNTY WASTE MANAGEMENT AGENCY

By: 
Chair _____

"County": COUNTY OF SONOMA

By: 
Chairman, Board of Supervisors _____

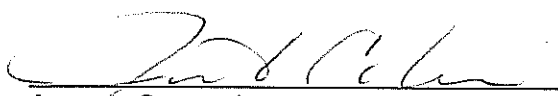
"Contractor": SONOMA COMPOST COMPANY

By: 
Title: PARTNER

APPROVED AS TO FORM
FOR COUNTY:


Sheryl L. Bratton
Chief Deputy County Counsel

APPROVED AS TO FORM
FOR AGENCY:


Agency Counsel

APPROVED AS TO SUBSTANCE
FOR AGENCY AND COUNTY:

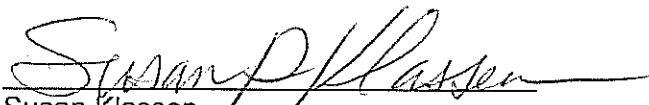

Susan Klassen
Acting Executive Director, SCWMA
Deputy Director for Sonoma County Department of Transportation and Public Works

EXHIBIT C-2
ORGANIC MATERIAL PROCESSING, COMPOSTING & MARKETING SERVICES
FOR SONOMA COUNTY WASTE MANAGEMENT AGENCY

Effective 7/1/07 - 06/30/08

Product	Cost per Ton	Less Guaranteed Revenue	Net Cost per Ton
Wood Debris - Fuel Market	\$33.36	\$12.00	\$21.36
Wood Debris - Non-fuel Market	\$29.18	\$6.00	\$23.18
Yard Debris - Processed @ Central, 0-175 tpd* and Prepared Yard Debris**	\$32.31	\$3.00	\$29.31
Yard Debris - Processed @ Central, 176 + tpd*	\$29.18	\$3.00	\$26.18

* Based on total tons of yard debris delivered to Contractor, monthly average.

**Per contract, formula for annual adjustment will be the same used for the Yard Debris - Processed at Central shown below.

All revenue in excess of guaranteed revenue will be split 50/50 between the Agency and the Contractor, except sale of Prepared Yard Debris.

CPI - current	216.123
Less CPI for previous period	209.1
Equals index point change	<u>7.023</u>
Divided by previous period CPI	0.03
50% per contract	1.68%
	0.0168