

**ORGANIC MATERIALS DIRECT SERVICE PROVIDER AGREEMENT
BETWEEN
THE CITY OF SALINAS, A MEMBER AGENCY OF THE SALINAS VALLEY SOLID
WASTE AUTHORITY, AND ATLAS ORGANICS**

THIS AGREEMENT FOR SERVICES (herein "Agreement") is made and entered into this ___ day of February, 2024 ("Effective Date") by and between the City of Salinas, a member of the Salinas Valley Solid Waste Authority ("Member Agency") and Atlas Organics CU11, LLC (Processor). The Processor and Member Agency may be collectively referred to as the "Parties" and individually as a "Party."

NOW, THEREFORE, the parties hereto agree as follows:

1. **Purpose of Agreement:** This Agreement sets forth the terms and conditions pursuant to which the Parties will cooperate to incentivize residents and solid waste rate payers of the Member Agency (Public Purchasers) to acquire recovered organic waste product in the form of finished compost ("Compost") or mulch ("Mulch") from Processor on behalf of the Member Agency to assist them in complying with the requirements of the California Code of Regulations (CCR), title 14, sections 18993.1 through 18993.4 ("SB 1383 Regulations").
2. **Term:** The term of this Agreement shall commence on the Effective Date and remain in effect until December 31, 2024. The term of this Agreement may be extended by mutual agreement of the parties for three (3) optional, one (1) year extensions.
3. **Services:** Processor shall provide to Public Purchasers a discount which is equal to current Member Agency Product Pricing (per cubic yard) for the purchase of Compost and/or Mulch, as applicable, as set forth in Exhibit A. Processor shall provide the Member Agency, or their designated representative, monthly reports evidencing procurement of and payment for the Compost or Mulch for the Public Purchaser for annual reporting purposes. The reports shall include date of purchase, the name of each individual, entity, operation, or facility from whom the Compost was procured, and the amount in tons or cubic yards purchased, and type of Compost and/or Mulch purchased. Processor will charge by the cubic yard. For budgeting purposes, the Member Agency can use a conversion factor of 1.4 cubic yards of compost for 1 ton of compost and 4 cubic yards of mulch for 1 ton of mulch. Compost or Mulch purchased as a part of this agreement shall not exceed combined annual jurisdiction procurement targets for the respective Member Agency, as set forth by CalRecycle and listed in Exhibit B.

4. **Payment:** Processor will submit monthly invoices to the Member Agency for reimbursement at the specified per cubic yard rate based on the current pricing listed in Exhibit A. All invoices shall be payable net forty-five (45) days of receipt.

5. **Warranties:** Processor warrants and covenants that all Compost or Mulch at the time of delivery conforms with the specifications in this Agreement, SB 1383 Regulations, particularly 14 CCR §§ 18993.1-18993.4, and complies with all federal, state, and local laws, regulations, and ordinances applicable to the manufacture, production and sale of Compost or Mulch.

6. **Indemnity:** Each Party (the "Indemnifying Party") agrees to indemnify and hold the other party, including the parties' parents, affiliates, and subsidiaries and each of their officers, employees, and agents (collectively, the "Indemnified Party"), harmless from and against all loss or damage, including reasonable attorneys' fees, costs and expenses incurred by the Indemnified Party as a result of any claims related to or arising out of the Indemnifying Party's performance of its duties hereunder, unless such loss or damage shall arise from the negligence or the intentional acts of the Indemnified Party. In the foregoing sentence, the words "loss or damage" include, but are not limited to, loss or damage arising directly or indirectly from any actions or omissions of any employee or authorized representative of either party.

7. **Limitation of Liability.** Notwithstanding anything to the contrary, EXCEPT IN THE CASE OF FRAUD, under no circumstances shall EITHER PARTY be liable to THE OTHER PARTY, ITS PARENTS, AFFILIATES AND SUBSIDIARIES and EACH OF THEIR OFFICERS, MANAGERS, EMPLOYEES, CONTRACTORS, OR AGENTS for any LOSS OF PROFITS, OR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, KNOWN OR UNKNOWN, ANTICIPATED OR UNANTICIPATED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE PARTIES ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL DAMAGES WERE AN ESSENTIAL ELEMENT IN SETTING CONSIDERATION UNDER THIS AGREEMENT.

8. **Governing Law, Venue:** This Agreement shall be deemed to have been made in the County of Monterey, California. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties agree that any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal or state courts located in Monterey County, California, and the Parties hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.

9. **Independent Purchaser:** A Public Purchaser shall act as an independent Purchaser in the performance of this Agreement and in no respect shall a Public Purchaser be considered an agent or employee of the Member Agency. No provisions of this Agreement shall be intended to create a partnership or joint venture between a Public Purchaser, Processor, or the Member Agency and no Party shall have the power

to bind or obligate the other Parties, except as expressly set forth in this Agreement.

10. **Entire Agreement:** This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement and any agreement or representation with respect to the same or the obligations of any other Party with respect to the same which is not expressly provided in this Agreement or in a written document which is signed by the Party to be charged, shall be null and void.

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the first day date above written.

Member Agency:

Processor:
Atlas Organics CU11, LLC

By: _____
City of Salinas

Date: _____

By: _____

Date: _____

Approved as to Form

By: _____

Date: _____

Exhibit A

Member Agency Product Pricing

Mulch: \$8.00 per cubic yard

Compost: \$12.50 per cubic yard

Exhibit B

Member Agency SB 1383 Procurement Targets

SVR Member Agency	Population*	Procurement Targets* (Tons)		
		Total Organic Waste	Mulch	Compost
Salinas	160,206	12,816	12,816	7,433
Soledad	24,454	1,956	1,956	1,134
King City	14,977	1,198	1,198	695
Gonzales	8,490	679	679	394
Greenfield	18,402	1,472	1,472	854
Unincorp County^	34,158	2,733	2,733	1,585
		TOTALS:	20,854	12,095

Conversion Factors:	
1 ton of organic waste =	0.58 ton of compost
1 ton of organic waste =	1 ton of mulch