

**AMENDED AND RESTATED AGREEMENT FOR THE TRANSPORT AND
BENEFICIAL REUSE OF GREEN WASTE AT THE CALABASAS LANDFILL**

THIS AMENDED AND RESTATED AGREEMENT (**AGREEMENT**) is dated _____, 2021 ("Execution Date") and is between the County Sanitation District No. 2 of Los Angeles County (the "District"), Department of Industrial Relations (DIR) identification number 100010096, and California Wood Recycling DBA: AGROMIN, a California corporation ("Contractor" or "Vendor"), DIR registration number PW-LR-1000839386. The District and the Vendor are referred to in this **AGREEMENT** individually as a "Party" and collectively as the "Parties."

The District is the operator of the Calabasas Landfill, located at 5300 Lost Hills Road, Los Angeles County, California (the "Property"). The District operates a nonhazardous solid waste disposal facility on the Property. The DIR registration number for this project is _____.

The Vendor recycles Green Waste materials and possesses the required equipment, expertise and the proper permits and licenses to perform its recycling business, and the Vendor seeks to operate a Green Waste materials processing facility on the Property.

The District is willing to allow the Vendor to use the Property for Green Waste materials processing as provided in this **AGREEMENT**.

The Parties therefore agree as follows:

1. Definitions.

- 1.1. "Acceptable Material" means wood waste and green waste, which may include de minimus amounts of residual contamination (less than 3% by weight) to be removed by the Vendor from the inbound material during the course of processing.
- 1.2. "**AGREEMENT**" means this **AGREEMENT** for the Processing, Transport, and Beneficial Reuse of Green Waste, as it may be amended or modified from time to time.
- 1.3. "Applicable Law" means applicable portions of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq ("RCRA"), the California Environmental Quality Act, California Public Resources Code, Div. 13 ("CEQA") and any other statute, rule, regulation, requirement, guideline, permit, action, determination or order of any governmental agency having jurisdiction, applicable from time to time to the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, management, operation or maintenance of facilities used for the transportation, handling, treatment or disposal of Acceptable Material (including but not limited to the Local Enforcement Agency), or any other transaction or matter contemplated in this **AGREEMENT** (including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, wages, mitigation monitoring plans, building codes, and non-discrimination).
- 1.4. "Approvals" means all permits, licenses or other approvals issued by any federal, state, or local governmental agencies required for the conduct of Green Waste operations at the Property, which may be issued to either District or Vendor.

- 1.5. "Green Waste" means grass, leaves, brush and other organic plant material capable of being ground, screened, and processed/recycled through those processes allowed by Applicable Law and those permits held by Vendor, provided however, that Green Waste expressly excludes all materials described in California Public Resources Code § 41781.2(b).
- 1.6. "Vendor's Facility" means the existing Wood Waste and Green Waste processing facility of approximately three acres located on the Property. The location of this facility may change from time to time depending upon the nature of the District's landfill operation. Any change in location, provided the Vendor is given 30 days prior written notice, is not subject to additional compensation under this **AGREEMENT**.
- 1.8. "Residual Material" means materials delivered to the Recycling Facility which do not qualify as Acceptable Material.
- 1.9. "Wood Waste" means tree and other wood materials that qualify as Acceptable Material, as defined above.
- 1.10. "Reuse Sites" means Vendor's or District(s) facilities that are designated to receive and reuse Green Waste or Food Waste from the Property and that conform to California law regarding diversion of waste material from disposal pursuant to the Public Resources Code (Section 41780, et seq.) throughout the duration of this **AGREEMENT**. If the Green Waste will be land applied, it must be composted prior to application. Direct land application is not an acceptable form of diversion. List Composting and Reuse facilities and addresses:
 1. Agromin/Limoneira Compost Facility – 12395 Telegraph Rd, Santa Paula, CA
 2. Agromin Organics Recycling Facility – 6859 Arnold Rd, Oxnard, CA
 3. Southern Kern Industrial Compost Center – 2653 Santiago Road Taft, CA
 4. Nursery Products - 14479 Cougar Rd, Helendale, CA 92342
 5. Agromin Chino Compost Facility – 8100 Chino Corona Rd, Chino, CA
 6. Agromin Ontario Compost Facility - 8929 Edison Ave, Ontario Ca 91762
 7. Agromin Mountain View Food Waste Processing Facility – 1641 Mountain View Ave. Oxnard, CA 93030
 8. Puente Hill MRF Recycle Center - 2808 Workman Mill Rd, Whittier, CA 90601
- 1.11. "Tipping Fee" means the per-ton rate to be paid to the Vendor for each ton of processed Green Waste that has been transported to and beneficially reused at a Reuse Site.
- 1.12. "Duration" has the meaning set forth in Section 6.
2. Tipping Fee and Vendor's Required Capacity. The Tipping Fee to be paid by the District for Green Waste at the Calabasas Landfill that has been processed, shredded, transported to an approved Reuse Site, and beneficially reused is \$59.00 per ton. The Tipping Fee will include all costs for services provided by Vendor under this **AGREEMENT** except as otherwise provided for herein. The costs included within the scope of the Tipping Fee include, without limitation, government fees and taxes.

Beginning in January 2022, the Vendor may request an annual adjustment in the Tipping Fee rates, not to exceed the percent change in the Urban Consumer Price Index (CPI-U) during the previous year as published by the Bureau of Labor Statistics for the Los Angeles-Riverside-Orange County area. All cost adjustment requests must be submitted no later than 30 calendar days before the date when the proposed adjustment would become effective. If the cost adjustment requests are made later than 30 days, the Vendor will receive the increase 30 days before the proposed effective date of an adjustment and are approved by the District, the Vendor will receive the increase 30 days from the date the request was made by the Vendor.

If: (i) new or increased fees and taxes are imposed, assessed, levied on, or charged to the Vendor, or (ii) District exceeds 200 tons per day, the Vendor may adjust the Tipping Fee so that such new or increased fees and taxes and/or additional costs are passed through to the District at cost. The Vendor shall provide the District no less than 30 days' advance written notice of any change proposed in the Tipping Fee to include new or increased fees and taxes along with a description of how such change was calculated. Either Party may terminate this **AGREEMENT** as specified in Section 5 if the increase in Tipping Fees as a result of new fees or taxes exceed 10 percent of the existing Tipping Fee during any twelve-month period.

The Vendor shall provide all services, including processing, grinding, transport and reuse, that qualify for diversion up to 200 tons per day from the Property. The Vendor shall ensure that the Reuse Sites reserve sufficient capacity from the Property at the Reuse Sites to accept up to 200 tons per day. Vendor acknowledges that the District has no control over the quantities of Green Waste that are delivered to the Property. Subject to the provisions of this **AGREEMENT**, the District makes no representation or guarantee with respect to any minimum and/or average daily tonnage of Green Waste to be accepted by the Vendor.

The Vendor shall provide the District, upon request, clean and processed Green Waste material for site use such as erosion control. The District will reduce payment to the Vendor by \$3 per ton for each ton of processed Green Waste material that is used on the Property. Vendor shall provide accurate daily reports documenting the tons of processed material delivered for Districts' use.

3. Permitted Uses. During the Duration of this **AGREEMENT**, the Vendor, its contractors and subcontractors may occupy and use the Property for the purposes permitted by this **AGREEMENT**, including, without limitation, the ingress and egress of employees or other personnel and equipment, storage of materials and equipment; and other activity on the Property necessary to and related to the operation, repair and maintenance of a Green Waste processing facility. Vendor's occupation and use of the Property shall be consistent with and in compliance with the terms and conditions of any Approvals. Vendor agrees and acknowledges that this **AGREEMENT** may, from time to time, be amended by the District.
4. No Interest or Estate. Vendor agrees that it does not and will not claim any interest or estate whatsoever in the Property by virtue of this **AGREEMENT** or Vendor's occupancy or use of the Property under this **AGREEMENT**.
5. Termination, Non-Performance and Suspension.
 - 5.1 Termination for Cause by District. Except as otherwise provided in this **AGREEMENT**, the District may terminate this **AGREEMENT** upon either of the following events:
 - 5.1.1 The filing by or against Vendor of a petition, consent or application under any federal or state bankruptcy law or any other law in which Vendor is alleged to be

insolvent or unable to pay its debts as they become due or the making by Vendor of an assignment for the benefit of creditors; or

5.1.2 The failure of Vendor to perform any obligation imposed upon it by this **AGREEMENT**, or breach by Vendor of any covenant set forth in this **AGREEMENT**, upon 30 days written notice to the Vendor, unless cured during the notice period.

5.2 Termination by Either Party. Either party shall have the right to terminate this **AGREEMENT** for cause in the event of a material breach by the other Party after providing no less than 30 days prior written notice to the other Party, unless the breach is cured during the notice period. In the event of a termination for cause, the terminating party may pursue all remedies and damages permitted under this **AGREEMENT** and the laws of California.

5.3 District Termination Without Cause. The District may terminate this **AGREEMENT** without cause if either Party is unable to obtain any Approvals required for the permitted uses, or the termination or expiration of any such Approvals provided, that the inability to obtain any required Approvals, or the termination or expiration of any such Approvals, does not arise due to the negligent or willful acts or omissions of the District or Vendor.

The provisions of Sections 7, 14 and 15 shall survive the evocation, expiration or other termination of this **AGREEMENT** until such time as the Property has been fully restored in accordance with Section 7 and any all liens discharged in accordance with Section 15, after which time Section 14 only shall survive.

5.4 Suspension. The District may suspend Vendor's performance of services under this **AGREEMENT** if, after notice and Vendor's failure to cure as provided in Section 5.2 above, the District determines that the Vendor can no longer timely perform the required services or if conditions exist at any of the Reuse Sites that do not comply with applicable regulations or permits as determined by the appropriate responsible agency through the issuance of a "Notice of Violation" or similar written notice. During the period of suspension, the District may hire another entity to perform the services to be provided by the Vendor under this **AGREEMENT**. The Vendor shall reimburse the District for any additional costs the District incurs during the period of suspension pursuant to Section 9. The District shall lift the suspension and allow Vendor to resume performance of services under this **AGREEMENT** if the District determines that the Vendor can timely and legally perform the required services and that any unacceptable conditions have been corrected. The District may require the Vendor to resume performance of its services on a trial basis to demonstrate continuous, reliable performance before lifting the suspension.

6. Duration and Extension. This **AGREEMENT** will be effective on January 1, 2022 ("Effective Date") and will continue in effect until December 31, 2025 ("Duration"), unless terminated earlier pursuant to this **AGREEMENT**. Prior to the end of this **AGREEMENT**, with mutual and written consent from both parties, the **AGREEMENT** may be extended for two additional two-year extensions.

7. No Waste. Vendor shall not cause, do, or permit any waste, disfigurement or injury to the Property or any improvements thereon during the term of this **AGREEMENT**.

8. Hours of Operation. Vendor shall operate at the Property during the District's posted hours of

operations: 8:00 AM to 5:00 PM Monday through Friday, and from 8:00 AM to 3:30 PM on Saturday. Vendor may not operate any equipment outside of these hours. Contractor must obtain the District's prior written consent to perform any repairs on the Property outside of the specified hours. The Calabasas Landfill is closed during the following holidays: New Year's Day, Memorial Day, Labor Day, Thanksgiving Day, and Christmas Day.

9. Invoicing and Payment. Each calendar month during the Duration, the Vendor shall present the District with an invoice containing, at a minimum, the date, time, gross and tare weight of each load leaving the Property and the location of the Reuse Site to which each load was transported to.

The District shall pay all undisputed invoiced amounts no later than 30 days after receiving a monthly invoice from the Vendor. In the event if the District is late paying on more than one occasion during a 12-month period, the District shall pay a late fee of 5% of the amount of the late payment.

If the Vendor or the District disputes the amount of any payment or invoice, the disputing Party shall provide notice of the dispute to the other Party and the specific grounds for the disputing Party's notice no later than 20 days after receipt of or the due date for the disputed payment or 20 days after the disputing Party's receipt of the disputed invoice. The District and the Vendor shall make a good faith effort to settle any dispute or claim arising under this **AGREEMENT**.

10. Obligations of Vendor. Vendor shall perform or obtain performance of all of the following activities as a part of its obligations under this **AGREEMENT**:

- 10.1 Vendor shall provide all labor and equipment to receive, direct traffic, clean and segregate contaminated materials, shred, load, and transport all processed Green Waste to the Vendor's Reuse Sites and beneficially reuse the Green Waste material. Vendor shall operate and maintain the Vendor's Facility, including (i) supplying all necessary labor and materials for operation; (ii) keeping the equipment in good repair, condition, and working order; and (iii) furnishing any parts, equipment and devices required for the operation of the Green Waste processing facility.

- 10.3 Vendor must have permitted processing and support equipment mobilized on site at all times. In the event of a breakdown of the Vendor's equipment resulting in any inability to process or ship material, Vendor must deliver back up equipment to the site to resume processing and shipping. Green Waste may not be stored, processed or unprocessed, for more than 24 hours. Scheduled days of closure of the Property are not included in the 24-hour calculation. Vendor shall communicate to the District any breakdown of the Vendor's operations no later than two hours after the occurrence of the breakdown, along with the Vendor's estimate of downtime and a contingency plan.

- 10.4 Divert all Green Waste in accordance with California Public Resources Code 41780. The Green Waste must be composted first if land applied. Any breach of this obligation is a material breach of the **AGREEMENT** and, notwithstanding any other provision of this **AGREEMENT**, the District may terminate this **AGREEMENT** immediately upon written notice if: (i) such an alleged breach is not fully cured no later than thirty (30) days after Vendor's receipt of written notice of such a breach from the District; or (ii) if Vendor commits more than one such breach within any 12-month period.

- 10.5 Obtaining and maintaining the insurance coverage required under Section 16 of this **AGREEMENT**.
- 10.6 Complying with Applicable Law and any Approvals which are required for the use of the Property as authorized by this **AGREEMENT**, whether such Approvals are obtained by Vendor or the District. In addition, Vendor shall not discriminate against any person on the basis of race, creed, color, national origin, sex, age, disability, or Vietnam Era veteran status. Any breach of the obligations contained in this Section will be a material breach of this **AGREEMENT**. Notwithstanding any other provision of this **AGREEMENT**, Vendor's failure to fully cure such a breach no later than thirty (30) days after Vendor's receipt of written notice of such a breach from the District or Vendor's commission of more than one such breach within any 12-month period will permit the District to terminate this **AGREEMENT** immediately upon written notice to Vendor. Any administrative action or Notice of Violation brought or issued by a governmental agency against either Vendor or the District relating to Vendor's noncompliance with any of the Approvals will constitute notice of a material breach for purposes of this Section.
- 10.7 Perform only the permitted uses as set forth in Section 3 of this **AGREEMENT** as currently provided and as it may be amended. Any breach of this Section will be a material breach of this **AGREEMENT** and, if such breach is not fully cured within thirty (30) days after Vendor's receipt of a written notice of breach by the District, or if Vendor commits more than one such breach within any 12-month period, the District may immediately terminate this **AGREEMENT** upon written notice to Vendor.
- 10.8 Payment of all utilities. The Vendor agrees to pay for any utilities made available by the District needed to operate the site.
- 10.8 The Vendor and its contractors or subcontractors shall, immediately after pulling out of the designated load-out area, cover all trailers with a tarp or some District approved equal.
- 10.10 Vendor shall remove litter from the Vendor's Facility. Additional cleaning may be required as requested by the District or as identified by Vendor.
11. Risk of Loss. Vendor shall bear the risk for any loss of or damage to any structures, improvements or equipment located or placed by Vendor on the Property. No such loss or damage, except where caused by the negligence of the District or as provided in Section 17.1 of this **AGREEMENT**, will impair any of Vendor's obligations under this **AGREEMENT**, which will continue in full force and effect.
12. Application of Prevailing Wage.
 - 12.1 Wage Rates, Travel, and Subsistence.
 - 12.1.1 Wage Rates. Pursuant to the provisions of Article 2 Chapter 1, Part 7, Division 2, of the Labor Code (section 1770 *et seq.*), the District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work of improvement is to be performed for each craft, classification, or type of worker needed to provide the work contemplated under this **AGREEMENT** from the Director of the Department of Industrial Relations ("DIR"). These rates are listed in **Exhibit A** of this **AGREEMENT**, on file with the District, and copies will be

made available to any interested party on request. Vendor shall post a copy of such wage rates at the Property.

For any worker employed to perform work, where such work is not covered by any classification listed in the published general prevailing wage rates determinations or per diem wages determined by the DIR, said worker shall be paid not less than the minimum rate of wages specified in the classification which most nearly corresponds to the employment of such person in such classification.

- 12.1.2 Holiday and Overtime Pay. Holiday and overtime work, when permitted by law, shall be paid for at a rate set forth in the prevailing wage determinations issued by the DIR or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in this **AGREEMENT**, or authorized by law
- 12.1.3 Wage Rates Not Affected By Other Contracts. Vendor shall pay and shall cause to be paid to each Employee to whom prevailing wage rates apply not less than the general prevailing rate of per diem wages determined by the DIR, regardless of any contractual relationship which may be alleged to exist between Vendor and Employee.
- 12.1.4 Travel And Subsistence. Vendor shall pay and shall cause to be paid to each Employee performing work travel and subsistence payments, as such travel and subsistence payments are defined by the DIR and in accordance with Labor Code § 1773 *et seq.*, including but not limited to Labor Code § 1773.1.
- 12.1.5 Change In Prevailing Wage During Bid or Construction. If the DIR issues a change in any prevailing rate of per diem wages in the locality in which this public work is to be performed, Vendor must comply with current prevailing wages at all times pursuant to determinations by the DIR and Labor Code § 1773 *et seq.* Prevailing wage determination rates are issued twice a year, in February and August and, as of the date of this contract, the effective date of a determination is 10 days after the issue date of the determination. So, for example, if the prevailing wage determination is issued February 22, the effective dates for implementing said new rate is March 3rd in leap years, and March 4th in non-leap years.
- 12.1.6 Minimum Wage Rates. Any worker employed to perform work, which work is not covered by any craft or classification listed in the general prevailing rate of per diem wages determined by the DIR, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to the work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.
- 12.1.7 Per Diem Wages. Vendor shall pay and shall cause to be paid to each Employee performing work per diem wages including, but not limited to, employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Labor Code § 1773.1.

- 12.1.8 Posting of Wage Rates. Prior to commencing any work, Vendor shall post the required notice/poster required under the California Code of Regulations and Labor Code section 1771.4 in both English and Spanish at a conspicuous, weatherproof area at the Property. The required notice/poster is available on the Labor Commissioner's website.
- 12.1.9 Forfeiture and Payments. Pursuant to Labor Code § 1775, Vendor shall forfeit to District not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages, determined by the DIR, for such craft or classification in which such worker is employed for any work performed. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of Vendor's mistake, inadvertence, or neglect in failing to pay the correct prevailing rate of per diem wage, the previous record of Vendor in meeting his or her prevailing rate of per diem wage obligations, or Vendor's willful failure to pay the correct prevailing rate of per diem wages. A mistake, inadvertence, or neglect in failing to pay the correct prevailing rate of per diem wage is not excusable if Vendor had knowledge of it or the obligations under this part. The difference between such prevailing rate of per diem wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing rate of per diem wage shall be paid to each worker by Vendor.
- 12.1.10 Monitoring and Enforcement by Labor Commissioner. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE). Vendor shall be required to furnish, at least monthly, certified payroll records directly to the Labor Commissioner in accordance with Labor Code section 1771.4. All payroll records shall be furnished in a format required by the Labor Commissioner. Vendor must sign up for, and utilize, the Labor Commissioner's electronic certified payroll records submission system. The District will have direct and immediate access to all CPRs for work performed under this **AGREEMENT** that are submitted through the Labor Commissioner's system. The District can use this information for any appropriate purpose, including monitoring compliance, identifying suspected violations, and responding to Public Records Act requests.

The Labor Commissioner and DLSE may conduct various compliance monitoring and enforcement activities including, but not limited to, confirming the accuracy of payroll records, conducting worker interviews, conducting audits, requiring submission of itemized statements prepared in accordance with Labor Code section 226, and conducting random in-person inspections of the Property ("On-Site Visits"). On-Site Visits may include inspections of records, inspections of the work site and observation of work activities, interviews of workers and others involved with the Premises, and any other activities deemed necessary by the Labor Commissioner/DLSE to ensure compliance with prevailing wage requirements. The Labor Commissioner/DLSE shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner/DLSE.

Any lawful activities conducted, or any requests made by the Labor Commissioner/DLSE shall not be the basis for any delays, claims, costs, damages or liability of any kind against the District by Vendor. Vendor and all Employees shall cooperate and comply with any lawful requests by the Labor Commissioner/ DLSE. The failure of the Labor Commissioner, DLSE, or any other entity related to the Department of Industrial Relations to comply with any requirement imposed by the California Code of Regulations, Title 8, Chapter 8 shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Division 2, Part 7, Chapter 1 of the Labor Code.

12.2 Records of Wages Paid: Certified Payroll Submissions and Inspection.

12.2.1. Payroll Records.

- a. Pursuant to section 1776 of the Labor Code, Vendor shall keep an accurate payroll record showing the name, address, social security number, work classification and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the work.
- b. All payroll records as specified in Labor Code § 1776 of Vendor shall be certified and furnished directly to the Labor Commissioner in accordance with Labor Code § 1771.4(a)(3) on a monthly basis (or more frequently if required by the District or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. Payroll records as specified in Labor Code § 1776 shall be certified and submitted to the District in hard copy (not electronic) with each application for payment or invoice. All payroll records shall be available for inspection at all reasonable hours at the principal office of Vendor on the following basis:
 - (i) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
 - (ii) A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the District, the Division of Labor Standards Enforcement or the Division of Apprenticeship Standards of the Department of Industrial Relations.
 - (iii) A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph (2) above, the requesting party shall, prior to being provided the records, reimburse the costs, according to law for the preparation by

Vendor, and the entity through which the request was made. The public shall not be given access to such records at the principal office of Vendor.

- c. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division of Labor Standards Enforcement.
- d. Vendor shall file a certified copy of all payroll records with the entity that requested such records within 10 calendar days after receipt of a written request.
- e. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or redacted to prevent disclosure of an individual's name, address and social security number. The name and address of the Vendor awarded the work shall not be marked or redacted. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or redacted only to prevent disclosure of an individual's name and social security number. Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records.
- f. The Vendor shall inform the District of the location of all payroll records, including the street address, city and county, and shall provide notice of a change of location and address within five (5) days of same.
- g. Vendor shall have 10 calendar days in which to comply subsequent to receipt of a written notice requesting payroll records. In the event that Vendor fails to comply within the 10-day period, the Vendor shall, as a penalty to the District, forfeit One Hundred Dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from payments then due to Vendor.
- h. Responsibility for compliance with this Article shall rest upon Vendor.

12.2.2. Withholding of Contract Payments & Penalties.

The District may withhold or delay contract payments to Vendor if:

- a. The required prevailing rate of per diem wages determined by the DIR is not paid to all Employees performing work;

- b. Vendor fails to submit all required certified payroll records with each application for payment or invoice, but not less than once per month;
- c. Vendor submits incomplete or inadequate payroll records;
- d. Vendor fails to comply with the Labor Code requirements concerning apprentices; or
- e. Vendor fails to comply with any applicable state laws governing workers on public works projects.

12.3 Apprentices.

12.3.1. Apprentice Wages and Definitions. All apprentices employed by Vendor to perform work shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which he or she is employed, as determined by the DIR, and shall be employed only at the work of the craft or trade to which he or she is registered. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards that have been approved by the chief of the Division of Apprenticeship Standards and who are parties to written apprenticeship agreements under Chapter 4 (commencing with section 3070) of Division 3, are eligible to be employed under this **AGREEMENT**. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training, or in accordance with the rules and regulations of the California apprenticeship Council.

12.3.2. Apprentice Labor Pool. When Vendor employs workers in any apprenticeable craft or trade, Vendor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the work, for a certificate approving the Vendor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving Vendor, shall arrange for the dispatch of apprentices to Vendor in order to comply with this section. Vendor shall submit the contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the **AGREEMENT**, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the crafts or trade in the area of the Property of the work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Vendor shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who shall be employed in the craft or trade at the Property, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one (1) hour of apprentice work for

every five (5) hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one (1) apprentice for each five (5) journeymen.

12.3.3. Journeyman/Apprentice Ratio: Computation of Hours. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. Vendor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one (1) apprentice for each five (5) journeymen in a craft or trade classification.

12.3.4. Journeyman/Apprentice Ratio. Vendor, if covered by this section upon the issuance of the approval certificate, or if previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by Vendor that it employs apprentices in the craft or trade in the state on all of its contracts on an annual average of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, or in the land surveyor classification, one (1) apprentice for each five (5) journeymen, the Division of Apprenticeship Standards may grant a certificate exempting Vendor from the 1 -to-5 hourly ratio as set forth in this section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than Thirty Thousand Dollars (\$30,000) or twenty (20) working days. Any work performed by a journeyman in excess of eight (8) hours per day or forty (40) hours per week, shall not be used to calculate the hourly ratio required by this section.

12.3.5. Apprenticeable Craft or Trade. "Apprenticeable craft or trade" as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting Vendor from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions is met:

- a. Unemployment for the previous three-month period in the area exceeds an average of fifteen percent (15%).
- b. The number of apprentices in training in such area exceeds a ratio of 1-to-5.
- c. There is a showing that the apprenticeable craft or trade is replacing at least one- thirtieth (1/30) of its journeymen annually through the apprenticeship training, either on a statewide basis or on a local basis.

- d. Assignment of an apprentice to any work performed under this **AGREEMENT** would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

12.3.6. Ratio Exemption. When exemptions are granted to an organization which represents Contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member Contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

12.3.7. Apprentice Fund. If Vendor employs journeymen or apprentices in any apprenticeable craft or trade and is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the Property, to which fund or funds other contractors in the area of the site of the Property are contributing, Vendor shall contribute to the fund or funds in each craft or trade in which he or she employs journeymen or apprentices on the Property in the same amount or upon the same basis and in the same manner as the other contractors do, but if the trust fund administrators are unable to accept the funds, Vendor shall pay a like amount to the California Apprenticeship Council. Vendor may add the amount of the contributions in computing its bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in the Labor Code § 227.

12.3.8. Vendor Compliance. The responsibility of compliance with paragraph 12.3 and section 1777.5 of the Labor Code for all apprenticeable occupations is with Vendor.

12.3.9. Decisions Of Joint Apprenticeship Committee. All decisions of the joint apprenticeship committee under this paragraph 12.3 and Labor Code § 1111.5 are subject to Labor Code § 3081.

12.3.10. No Bias. It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works on the grounds of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in the Labor Code § 3077.

12.3.11. Violation of Labor Code. Pursuant to Labor Code § 1777.7, in the event Vendor willfully fails to comply with the provisions of this paragraph 12.3 and Labor Code § 1777.5:

- a. The DIR shall deny to Vendor the right to bid on, or to receive, any public works contract for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violations. Each period of debarment shall run from the date the determination of noncompliance by the Administrator of Apprenticeship becomes an order of the California Apprenticeship Council.
- b. If Vendor violates section 1777.5 it shall forfeit as a civil penalty the sum

of two hundred dollars (\$200) for each calendar day of noncompliance. Notwithstanding section 1727, upon receipt of a determination that a civil penalty has been imposed, District shall withhold the amount of the civil penalty from the contract progress payments then due or to become due.

- c. In lieu of the penalty provided for in subdivision (a) or (b), the DIR may for a first time violation and with the concurrence of the joint apprenticeship committee, order Vendor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.
- d. Any funds withheld by District pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if the awarding body is an entity other than the state.
- e. The interpretation and enforcement of section 1777.5 and this section shall be in accordance with the rules and procedures of the California Apprenticeship Council.

12.4 DIR Registration.

12.4.1. Registration by Vendor and All Subcontractors of Any Tier. Strict compliance with all DIR registration requirements in accordance with Labor Code sections 1725.5 and 1771.1 is a material obligation of Vendor under the **AGREEMENT**. The foregoing includes, without limitation, compliance with DIR registration requirements at all times during performance of the work by Vendor. The failure of Vendor to be properly registered with DIR at all times during performance of the work is a material breach of the Contract and subject to termination for cause. An affirmative and ongoing obligation of Vendor under the **AGREEMENT** is the verification that all subcontractors of any tier are at all times during performance of the work in full and strict compliance with the DIR registration requirements. Vendor shall not permit or allow any subcontractor of any tier to perform any work without Vendor's verification that all subcontractors are in full and strict compliance with the DIR registration requirements. Any subcontractors of any tier not properly registered with DIR shall be substituted in accordance with Labor Code § 1771.1. Vendor or its subcontractors of any tier shall not be entitled to any additional costs or time arising from or in any way related to compliance with the DIR registration requirements.

13. The District's Obligations. The District shall operate the weigh scales and collect all fees for incoming unprocessed Green Waste. The District will provide a suitable area on the Property for the Vendor to operate as defined in Section 1.6. The District will weigh all outbound trucks loaded with clean shredded Green Waste destined for the Reuse Sites. The District will pay the Vendor as specified in Section 2.

13.1 Management of Residue. The District shall provide for the disposal and relocation of any residual material removed by the Vendor from the incoming Green Waste material at no cost to Vendor. Without limiting the foregoing, the District shall be solely responsible from the prompt and proper management and removal of all hazardous materials and/or wastes found in any material provided to Vendor.

13.2 Sole Provider. The District agrees that Vendor shall be the sole Vendor on the Property for Green Waste processing.

13.3 Permits. The District will ensure the Contractor that all facility permits are current and maintained to allow chipping and grinding of Green Waste and wood waste on the property

14. Indemnification.

14.1 Vendor shall indemnify, defend and hold the District harmless from and against any and all loss, cost, damage, suit, liability, claim, settlement cost and expense (including, but not limited to, reasonable investigation and legal expenses) incurred arising from, caused by, or resulting from any act or omission of Vendor, or its agents, employees or subcontractors, in the course of performing its obligations pursuant to this **AGREEMENT**, or any breach of this **AGREEMENT**, including but not limited to the failure by Vendor to pay the proper prevailing wage rate to any employee working on a District project or otherwise under this **AGREEMENT**, or to otherwise comply in all respects with California prevailing wage laws applicable to District projects, including under the *Kaanaana v. Barrett Business Services, Inc., et al.* (2021) 11 Cal.5th 158 decision.

14.2 District shall indemnify, defend and hold Vendor harmless from and against any and all loss, cost, damage, suit, liability, claim, settlement cost and expense (including, but not limited to, reasonable investigation and legal expenses) incurred arising from, caused by, or resulting from: (i) any failure to obtain or maintain the permits referred to in Section 13.3 above, and (ii) any hazardous materials or wastes contained in incoming material.

15. Liens. During the Duration of this **AGREEMENT**, Vendor may not permit to remain and shall promptly discharge, at its sole cost and expense, all mechanics', laborers', and materialmen's liens, encumbrances and charges (other than liens, encumbrances and charges created or suffered by the District or any person acting for or on behalf of the District) at the Property or on any part of the Property. The existence of any mechanics', laborers', or materialmen's' liens or rights incident thereto will not constitute a violation of this section if payment is not yet due from Vendor as provided in the contract which is the basis of the claimed lien or right. Vendor may contest with due diligence the validity or amount of any lien or claimed lien if Vendor procures and records a lien release bond issued by a corporation authorized to issue surety bonds in California in an amount equal to one and one-half times the amount of the claim of lien. Such bonds must meet the requirements of California Civil Code Section 8424 and must provide for the payment of any sum that the claimant may recover with respect to the claim in question, together with costs of suit to the extent that such claim recovers the same. On any adverse, final determination of the lien or claim for lien, Vendor shall immediately pay any judgment rendered with all proper costs and charges and shall have the lien released or judgment satisfied at Vendor's sole cost and expense and, if Vendor fails to do so, the District may in its sole discretion pay any such final judgment. If Vendor fails to record a lien release bond as provided in this section and such failure is not cured by Vendor within a reasonable time after demand by the District, the District may contest the validity or amount of any such lien or claim of lien or settle or compromise the same without inquiring into the validity of the claim or the reasonableness of the amount of the same.

16. Insurance.

16.1 During the term of this **AGREEMENT**, Vendor shall obtain and maintain, and shall

furnish to the District certificates attesting to the existence of, the following insurance to protect against any losses or damages occurring during the Duration, which shall be first obtained no later than seven days after the Execution Date.

| <u>Coverage</u> | <u>Limits of Liability</u> |
|---|--|
| Workmen's Compensation Employer's Liability | Statutory \$1,000,000 Each Occurrence |
| General Liability, Including Bodily Injury, Property Damage and Contract Liability | \$3,000,000 Combined Single Limit, Each Occurrence |
| Automobile Liability, Including Bodily Injury and Property Damage | \$1,000,000 Combined Single Limit, Each Occurrence |

- 16.2 Each certificate must contain a statement of the insurer's obligation to notify the party to whom the certificate is addressed no later than 30 days prior to cancellation of any policy covered by that certificate.
- 16.3 Vendor's General Liability and Automobile Liability policies shall name the District, and its directors, officers, employees, and agents as additional insureds.

17. General Conditions.

- 17.1 Force Majeure. Neither the Vendor nor the District will be responsible or liable for failure to meet their respective obligations under this **AGREEMENT** if that failure is due to causes beyond the Vendor's or the District's reasonable control. Such causes include, but are not limited to: strikes, fire, flood, civil disorder, acts of God or of the public enemy, acts of the federal government, or any unit of state or local government in either sovereign or contractual capacity, epidemics, freight embargoes or delays in transportation, and changes in federal, state, or local law that renders the District's Green Waste impermissible or illegal for use by the Vendor or at one or more Reuse Sites. The Vendor shall immediately notify the District in writing of the occurrence of any condition believed to constitute a force majeure under this section. If a condition of force majeure exists for 30 calendar days or more, either Party may terminate this **AGREEMENT** by giving notice in writing in accordance with Section 16.9. The notice will become effective 24 hours after receipt. No Party, however, will be relieved of any obligation or liability to the extent that any delay related to a force majeure cause arises out of that Party's own acts or negligence.
- 17.2 Independent Contractor. The work, labor and other obligations included in this **AGREEMENT** will be performed and furnished by the Parties as independent contractors and under the sole supervision, management, direction, and control of each Party in accordance with this **AGREEMENT**. This **AGREEMENT** does not create a partnership, joint venture, or employment relationship between the Parties.
- 17.3 Waivers. The District's failure to complain regarding any act or omission by Vendor, no matter how long the same shall continue, shall not be a waiver by the District of its rights under this **AGREEMENT**. No waiver by the District, express or implied, of any breach

of any provision of this **AGREEMENT** may be deemed a waiver of any other provision of this **AGREEMENT** or a consent to any subsequent breach of the **AGREEMENT** or any other provision of the **AGREEMENT**.

- 17.4 Assignment. Neither Party may assign this **AGREEMENT** in whole or in part without the prior written consent of the other Party. If either party assigns this **AGREEMENT** as permitted by this Section, that assignment will be binding upon the subject party and ensure compliance with the terms and conditions of the **AGREEMENT**. Any assignment of this **AGREEMENT** does not absolve the assigning party of any of its obligations under this **AGREEMENT**.
- 17.5 Entire AGREEMENT. This **AGREEMENT** represents the entire understanding between District and Vendor as to the matters set forth in this **AGREEMENT**. No prior oral or written understanding is of any force or effect with respect to the matters covered in this **AGREEMENT**.
- 17.6 Amendment. This **AGREEMENT** may not be changed, modified, amended, or waived except by prior written Agreement authorized and executed by both Parties.
- 17.7 Governing Law. This **AGREEMENT** will be construed according to the laws of the State of California, including the laws that are in place as of the Execution Date for the handling and management of Green Waste materials. If changes in regulations or the enforcement of existing regulations occur, Vendor shall notify the District and the Parties shall work in good faith to agree upon changes to the services and rates provided by the Vendor in this **AGREEMENT** taking into account such changes. If the Vendor and District cannot mutually agree upon changes to the **AGREEMENT** sought by one of the Parties due to changes in regulations or the enforcement of existing regulations before such changes take effect, Vendor may to terminate this **AGREEMENT** after no less than thirty (30) days prior written notice.
- 17.8 Counterparts. This **AGREEMENT** may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.
- 17.9 Notices. Any notice, request, report or other document required or permitted by this **AGREEMENT** must be in writing and must be sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the party to be notified at the addresses appearing below, or such other address as such party may hereafter designate by written notice. Any such change of address shall be effective upon receipt of said notice.

District:

County Sanitation District No. 2
of Los Angeles County
1955 Workman Mill Rd
Whittier, CA 90601 Oxnard, CA 93030
Attn: Mark Revilla
Attn: Bill Camarillo

Contractor:

California Wood Recycling
DBA: Agromin
201 Kinetic Drive

The Parties are signing this **AGREEMENT** as of the Execution Date.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement on the day and year set forth above.

**CALIFORNIA WOOD RECYCLING
DBA AGROMIN**

By 

Name Billy A. Camarillo

Title CEO

COUNTY SANITATION DISTRICT NO. 2 OF
LOS ANGELES COUNTY

By _____
Chairperson, Board of Directors

ATTEST:

By _____
Secretary to the Board

APPROVED AS TO FORM:
LEWIS, BRISBOIS, BISGAARD & SMITH LLP

By _____
District Counsel

EXHIBIT A

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

Craft: Landfill Worker (Operating Engineer)

Determination:
SC-63-12-41-2021-1

Issue Date:
February 22, 2021

Expiration date of determination:
March 31, 2021* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director - Research Unit at (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

Localities:
All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties.

Wages and Employer Payments:

| Classification (Journeyman) | Basic Hourly Rate | Health and Welfare a | Pension | Vacation and Holiday | Training | Other b | Hours | Total Hourly Rate | Daily Overtime Hourly Rate (1 1/2 X) | Saturday Overtime Hourly Rate (1 1/2 X) ^c | Sunday/ Holiday Overtime Hourly Rate (2 X) |
|---|-------------------------|-------------------------------|---------|----------------------------|----------|------------|-------|-------------------------|--|--|---|
| Mechanic | \$22.15 | \$4.21 | \$1.05 | \$1.78 | \$0.06 | \$3.80 | 8.0 | \$33.05 | \$44.125 | \$44.125 | \$55.20 |
| Lead Equipment Operator | \$20.15 | \$4.12 | \$0.95 | \$1.61 | \$0.06 | \$3.44 | 8.0 | \$30.33 | \$40.405 | \$40.405 | \$50.48 |
| Lead Truck Driver/ Equipment Operator | \$19.15 | \$4.07 | \$0.90 | \$1.52 | \$0.06 | \$3.28 | 8.0 | \$28.96 | \$38.535 | \$38.535 | \$48.11 |
| Truck Driver - End Dump/ Walking Floor/Low Bed | \$18.15 | \$4.02 | \$0.85 | \$1.44 | \$0.06 | \$3.08 | 8.0 | \$27.60 | \$36.675 | \$36.675 | \$45.76 |
| Truck Driver - Roll-Off/Transfer Station Loader Operator/ Maintenance/ Fueler/ Mechanic Helper | \$17.15 | \$3.98 | \$0.80 | \$1.35 | \$0.06 | \$2.90 | 8.0 | \$26.24 | \$34.815 | \$34.815 | \$43.99 |
| Scale House | \$16.15 | \$3.93 | \$0.75 | \$1.27 | \$0.06 | \$2.72 | 8.0 | \$24.88 | \$32.955 | \$32.955 | \$41.03 |
| Load Checker/ Water Truck Driver/ Parts Runner | \$14.00 | \$3.70 | \$0.50 | \$0.85 | \$0.06 | \$1.81 | 8.0 | \$20.92 | \$27.92 | \$27.92 | \$34.92 |
| Laborer | \$14.00 | \$3.81 | \$0.40 | \$0.68 | \$0.06 | \$1.45 | 8.0 | \$20.20 | \$27.20 | \$27.20 | \$34.20 |

Determination: SC-63-12-41-2021-1
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Recognized holidays:

Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Director's General Prevailing Wage Determinations Website (<http://www.dir.ca.gov/DIRL/DPWageDetermination.htm>). Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director - Research Unit at (415) 703-4774.

Travel and/or subsistence payment:

In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Director's General Prevailing Wage Determinations Website (<http://www.dir.ca.gov/DIRL/DPWageDetermination.htm>). Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director - Research Unit at (415) 703-4774.

- ^a Includes an amount for Sick Leave.
- ^b Amount for employee stock ownership.
- ^c Rate applies to the sixth consecutive day of work.

SP