



## Meeting of the Board of Directors

August 21, 2019  
REGULAR MEETING

Closed Session begins at 8:00 a.m.  
Regular Session begins at 8:30 a.m. or immediately following  
Closed Session  
Estimated Ending Time 11:00 a.m.

*City of Santa Rosa Council Chambers  
100 Santa Rosa Avenue  
Santa Rosa, CA*

Meeting Agenda and Documents

**SONOMA COUNTY WASTE MANAGEMENT AGENCY**

**Meeting of the Board of Directors**

August 21, 2019

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*Note: This packet is 59 pages total*



## **Zero Waste Sonoma**

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City of Santa Rosa Council Chambers  
100 Santa Rosa Avenue  
Santa Rosa, CA

### **Agenda**

#### **Item**

1. Call to Order
2. Closed Session: Public Employee Performance Evaluation  
Title: Executive Director
3. Adjourn Closed Session / Call to Order Regular Meeting
4. Agenda Approval
5. Public Comments (items not on the agenda)

#### **Consent** (w/attachments)

- 4.1 Minutes of the June 19, 2019 Regular Meeting
- 4.2 July, August, and September 2019 Outreach Calendar



### **Regular Calendar**

5. Update on Negotiations with Renewable Sonoma; Request for Formation of Ad Hoc Subcommittee of Board for the Organic Materials Processing Project Update [Walsh]
6. Compostable Products Report [Tan]
7. Discussion of Draft Template Agreement Regarding the Adoption of the Model Polystyrene Ordinance [Walsh]
8. Boardmember Comments – NO ACTION
9. Executive Director Report – Verbal Update – NO ACTION
10. Staff Comments – NO ACTION
11. Next SCWMA meeting: September 18, 2019
12. Adjourn

**Consent Calendar:** These matters include routine financial and administrative actions and are usually approved by a single majority vote. Any Boardmember may remove an item from the consent calendar.

**Regular Calendar:** These items include significant and administrative actions of special interest and are classified by program area. The regular calendar also includes "Set Matters," which are noticed hearings, work sessions and public hearings.

**Public Comments:** Pursuant to Rule 6, Rules of Governance of the Sonoma County Waste Management Agency, members of the public desiring to speak on items that are within the jurisdiction of the Agency shall have an opportunity at the beginning and during each regular meeting of the Agency. When recognized by the Chair, each person should give his/her name and address and limit comments to 3 minutes. Public comments will follow the staff report and subsequent Boardmember questions on that Agenda item and before Boardmembers propose a motion to vote on any item.

**Disabled Accommodation:** If you have a disability that requires the agenda materials to be in an alternative format or requires an interpreter or other person to assist you while attending this meeting, please contact the Sonoma County Waste Management Agency Office at 2300 County Center Drive, Suite B100, Santa Rosa, (707) 565-3579, at least 72 hours prior to the meeting, to ensure arrangements for accommodation by the Agency.

**Noticing:** This notice is posted 72 hours prior to the meeting at The Board of Supervisors, 575 Administration Drive, Santa Rosa, and at the meeting site the City of Santa Rosa Council Chambers, 100 Santa Rosa Avenue, Santa Rosa. It is also available on the internet at [www.zerowastesonoma.gov](http://www.zerowastesonoma.gov)



**Date:** June 21, 2019  
**To:** Zero Waste Sonoma Board Members  
**From:** Leslie Lukacs, Executive Director  
**Subject:** **Summary Report for the SCWMA Board Meeting of June 19, 2019**

**Consent Calendar:** All Items listed below were approved.

- 4.1 Minutes of the May 15, 2019 Regular Meeting
- 4.2 May, June, and 2019 Outreach Calendar
- 4.3 Correspondence

## **Regular Calendar**

### **5. Contract Services Budget Appropriation:**

The Board of Directors approved increasing the budgetary appropriations for Other Contract Services in the Organics budget by \$500,000. The FY 2018-19 Final Budget contained \$4,985,320 for Other Contract Services for organics hauling and processing for an estimated 81,000 tons of organic material. On December 19, 2018, the Board approved a new hauling contract with Recology Sonoma Marin. The new contract included increases in transportation costs. As of April, the tonnage totals for hauling were approximately 70,500. May and June tonnage amounts are estimated to be similar to April's tons, totaling an additional 7,100 tons over projections. The increased tonnage, as well as the increased hauling costs have exceeded our budget appropriations. The organics tipping fee was increased by \$7.25/ton at the March 20, 2019 meeting. The increased revenue will offset the transportation costs. Staff is requesting a \$500,000 increase in appropriations to Other Contract Services in order to complete the fiscal year.



**To:** Zero Waste Sonoma Board Members  
**From:** Leslie Lukacs, Executive Director  
**Subject:** August 21, 2019 Board Meeting Agenda Notes

## Consent Calendar

These items include routine financial, informational and administrative items and **staff recommends that they be approved en masse by a single vote.** Any Board member may remove an item from the consent calendar for further discussion or a separate vote by bringing it to the attention of the Chair.

4.1 **Minutes of the June 19, 2019 Regular Meeting:** regular acceptance.

4.2 **July, August, and September 2019 Outreach Calendar:** This item provides an update on outreach events since the last meeting and upcoming outreach events. No action is required.

## Regular Calendar

5 **Update on Negotiations with Renewable Sonoma:** Request for Formation of Ad Hoc Subcommittee of Board for the Organic Materials Processing Project Update

6 **Compostable Products Report:** Over the past year, the Committee researched other composting facilities in California and around the country where compostable bio-plastic products are accepted. The Committee also spoke to industry experts, reviewed research papers, and eventually produced four potential options for the SCWMA board to consider:

- Only Unlined Fiber Products Accepted
- Single-stream; All BPI-certified Compostable Food Service Ware Accepted
- Dual-Stream; All BPI-certified Compostable Food Service Ware Accepted
- Out-haul Compostable Products to Napa

**Staff recommends to proceed with composting facility contract negotiations where the only materials accepted are food scraps, yard debris, and unlined fiber products containing no bioplastics.**

7 **Discussion of Draft Template Agreement Regarding the Adoption of the Model Polystyrene Ordinance:** A draft template agreement for Adoption of the Model Polystyrene Ordinance will be presented. If the template agreement is satisfactory, Board members whose member agencies plan to adopt the model polystyrene ordinance may refer the draft agreement to their City Attorney/County Counsel offices for consideration. **Staff recommendations Board feedback or suggestions to Agency Counsel.**



## Minutes of the June 19, 2019 Meeting

Zero Waste Sonoma met on June 19, 2019, at the City of Santa Rosa Council Chambers, 100 Santa Rosa Avenue, Santa Rosa, California.

### Board Members Present:

City of Cloverdale	ABSENT	City of Santa Rosa	ABSENT
City of Cotati	Susan Harvey	City of Sebastopol	Henry Mikus
City of Healdsburg	Larry Zimmer	City of Sonoma	Madolyn Agrimonti
City of Petaluma	Patrick Carter	County of Sonoma	Susan Gorin
City of Rohnert Park	Pam Stafford	Town of Windsor	Deb Fudge

### Staff Present:

Executive Director: Leslie Lukacs

Counsel: Ethan Walsh

Staff: Thora Collard, Courtney Scott, Bonnie Betts

Agency Clerk: Janel Perry

### 1. Call to Order Regular Meeting

Regular meeting was called to order at 8:35 a.m.

### 2. Agenda Approval

### 3. Public Comments (items not on the agenda)

John F. Llano Road resident-against compost facility on Llano Road.

### 4. Consent (w/attachments)

4.1 Minutes of the May 15, 2019 Regular Meeting

4.2 May, June, and July 2019 Outreach Calendar

4.3 Correspondence

### Public Comments:

None.

**Motion:** For approval of all items on the consent calendar except 4.1 minutes.

**First:** County of Sonoma-Susan Gorin

**Second:** City of Cotati-Susan Harvey

### Vote Count:

City of Cloverdale	ABSENT	City of Santa Rosa	ABSENT
City of Cotati	AYE	City of Sebastopol	AYE
City of Healdsburg	AYE	City of Sonoma	AYE
City of Petaluma	AYE	County of Sonoma	AYE

City of Rohnert Park AYE

Town of Windsor

AYE

AYES -8- NOES -0- ABSENT -2- ABSTAIN -0-  
**Motion passed.**

**Motion:** For approval of item 4.1 on the consent calendar.

**First:** County of Sonoma-Susan Gorin

**Second:** City of Cotati-Susan Harvey

**Vote Count:**

City of Cloverdale ABSENT  
City of Cotati AYE  
City of Healdsburg AYE  
City of Petaluma AYE  
City of Rohnert Park AYE

City of Santa Rosa ABSENT  
City of Sebastopol AYE  
City of Sonoma AYE  
County of Sonoma AYE  
Town of Windsor ABSTAIN

AYES -7- NOES -0- ABSENT -2- ABSTAIN -1-  
**Motion passed.**

**Regular Calendar**

5. Budget Adjustment Request - Organics [Collard]

**Public Comments:**

None.

**Motion:** Approval of the Budget Adjustment Request.

**First:** City of Cotati-Susan Harvey

**Second:** County of Sonoma-Susan Gorin

**Vote Count:**

City of Cloverdale ABSENT  
City of Cotati AYE  
City of Healdsburg AYE  
City of Petaluma AYE  
City of Rohnert Park AYE

City of Santa Rosa ABSENT  
City of Sebastopol AYE  
City of Sonoma AYE  
County of Sonoma AYE  
Town of Windsor AYE

AYES -8- NOES -0- ABSENT -2- ABSTAIN -0-  
**Motion passed.**

5. **Boardmember Comments – NO ACTION**

Comments were received by chair from various board members.

6. **Executive Director Report – NO ACTION**

Executive Director gave verbal report.



7. **Staff Comments – NO ACTION**  
Comments were received by chair from staff.
8. **Next SCWMA meeting:** July 17, 2019
9. **Adjourn at 8:56 a.m.**

Submitted by: Janel Perry

DRAFT



Agenda Item #: **4.2**  
 Agenda Date: **8/21/2019**

## ITEM: July, August, September 2019 Outreach Calendar

### JULY 2019 OUTREACH EVENTS

Start date	End date (multiple day only)	Start time	End time	Event	Jurisdiction
Jul-2		4:00 PM	8:00 PM	Household Hazardous Waste Event	Rohnert Park
Jul-3		5:00 PM	8:30 PM	Santa Rosa Wednesday Night Market	Santa Rosa
Jul-9		4:00 PM	8:00 PM	Household Hazardous Waste (Santa Rosa, East)	Santa Rosa
Jul-10		9:45 AM	10:30 AM	Fulton Labor Center presentation	Unincorporated area
Jul-10		8:00 AM	9:30 AM	Healdsburg Labor Center presentation	Healdsburg
Jul-10		5:00 PM	8:30 PM	Santa Rosa Wednesday Night Market	Santa Rosa
Jul-11		5:00 PM	7:00 PM	Waste Less Windsor Town Green Concert Series	Windsor
Jul-12	Jul-14	9:00 AM	5:00 PM	E-Waste Event	Petaluma
Jul-14		10:30 AM	6:30 PM	La Guelaguetza	Santa Rosa
Jul-16		4:00 PM	8:00 PM	Household Hazardous Waste Event (Boyes Hot Springs)	Unincorporated area
Jul-17		5:00 PM	8:30 PM	Santa Rosa Wednesday Night Market	Santa Rosa
Jul-23		4:00 PM	8:00 PM	Household Hazardous Waste Event (Cloverdale)	Cloverdale
Jul-24		5:00 PM	8:30 PM	Santa Rosa Wednesday Night Market	Santa Rosa
Jul-25		7:30 AM	11:30 AM	Santa Rosa DMV	Santa Rosa
Jul-26		7:30 AM	1:00 PM	Sustainable Winegrowing Field Day	Santa Rosa
Jul-30		4:00 PM	8:00 PM	Household Hazardous Waste Event (Rincon Valley)	Santa Rosa
Jul-31		5:00 PM	8:30 PM	Santa Rosa Wednesday Night Market	Santa Rosa
Jul-31		7:30 AM	6:00 PM	Zero Waste North Bay Symposium	Rohnert Park

## AUGUST 2019 OUTREACH EVENTS

Start date	End date (multiple day only)	Start time	End time	Event	Jurisdiction
Aug-1		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-2		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-3		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-4		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-5		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-6		4:00 PM	8:00 PM	Household Hazardous Waste Event (Sebastopol)	Sebastopol
Aug-6		4:00 PM	8:00 PM	ReFuel Your Fun Propane Exchange Event	Sebastopol
Aug-6		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-7		9:30 AM	10:30 AM	Fulton Labor Center presentation	Unincorporated area
Aug-7		8:00 AM	9:30 AM	Healdsburg Labor Center presentation	Healdsburg
Aug-7		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-7		4:00 PM	8:30 PM	Wednesday Night Market Recology Sustainability Village	Santa Rosa
Aug-8		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-9		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-10		10:00 AM	1:00 PM	Back to School Health Fair	Sonoma
Aug-10	Aug-11	9:00 AM	5:00 PM	E-Waste Event (Oakmont)	Santa Rosa
Aug-10		10:00 AM	2:00 PM	Mochilazo at Bayer Farm	Santa Rosa
Aug-10		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-11		11:00 AM	10:00 PM	Sonoma County Fair	Santa Rosa
Aug-13		4:00 PM	8:00 PM	Household Hazardous Waste Event (Windsor)	Windsor
Aug-13		4:00 PM	8:00 PM	ReFuel Your Fun Propane Exchange Event	Windsor
Aug-14		6:00 PM	8:00 PM	Welcome Back to School	Sonoma
Aug-16	Aug-17	9:00 AM	5:00 PM	HazMobile Event (Sea Ranch)	Unincorporated area
Aug-20		4:00 PM	8:00 PM	Household Hazardous Waste Event (Oakmont)	Santa Rosa
Aug-27	Aug-28	4:00 PM	8:00 PM	Household Hazardous Waste Event (Sonoma)	Sonoma

## SEPTEMBER 2019 OUTREACH EVENTS

Start date	End date (multiple day only)	Start time	End time	Event	Jurisdiction
Sep-11		8:00 AM	9:30 AM	Healdsburg Labor Center presentation	Healdsburg
Sep-28		9:00 AM	2:00 PM	Healdsburg Kiwanis Club Family Safety Fair	Healdsburg



Agenda Item #: 5  
Cost Center: All  
Staff Contact: Walsh  
Agenda Date: 8/21/2019  
Approved by: LL

## **ITEM: Update on Negotiations with Renewable Sonoma; Request for Formation of Ad Hoc Subcommittee of Board for the Organic Materials Processing Project**

### **I. RECOMMENDED ACTION / ALTERNATIVES TO RECOMMENDATION**

That the Agency Board receive the following update on staff's discussions and negotiations with Renewable Sonoma regarding the Organic Materials Processing Project. Agency staff would also like the Board to consider forming an ad hoc subcommittee of the Board that can serve as a sounding board for Agency staff on the various policy issues that come up during the negotiation. Ideally the subcommittee would consist of three board members, representing both smaller and larger jurisdictions to provide a good cross-section of perspectives on the organic processing issues.

### **II. BACKGROUND**

On May 31, 2017, the Agency issued an RFP for Organic Materials Processing Services. The RFP was structured with the intent of allowing for a range of potential solutions, including providing services through existing facilities, development of new facilities, or provision of services from multiple facilities or providers. The Agency received 12 proposals by the due date of January 16, 2018, and Agency staff and consultants conducted a comprehensive review of the proposals received. After that review, Agency staff recommended that the Agency enter into negotiations with Renewable Sonoma to develop a new organics processing facility in Sonoma County. At the August 15, 2018 Board meeting, the Agency Board held a public hearing to consider the proposals received, and then directed Agency staff to enter into exclusive negotiations with Renewable Sonoma to negotiate an agreement to develop a new organics facility consistent with the terms of their proposal, which both parties contemplated would be located at the site of the City of Santa Rosa's Laguna subregional wastewater treatment facility (the "Laguna Site"). Renewable Sonoma would simultaneously enter into negotiations with the City of Santa Rosa for the lease of property at the Laguna Site.

The year since these negotiations commenced has been a period of considerable flux for the Agency. Shortly after the August 2018 Board meeting, Patrick Carter resigned from his position as Executive Director of the Agency to take his current position with the City of Petaluma, and at the October 17, 2018 meeting, the Agency Board appointed Susan Klassen as Interim Executive Director of the Agency. After taking this position, Ms. Klassen assumed the lead role in discussions with Renewable Sonoma regarding Organics Processing. At the May 15, 2019 meeting, Leslie Lukacs was appointed Executive Director, and Ms. Lukacs has now assumed the lead role in these discussions. Ms. Klassen has agreed to continue to work with the Agency on an advisory basis, to provide continuity and institutional knowledge in these negotiations.

The Agency staff and Renewable Sonoma representatives have been meeting every two weeks to discuss the relevant agreements and the process of moving this matter forward. Renewable Sonoma is also meeting with the City of Santa Rosa on a bi-weekly basis to discuss the lease and related issues. Representatives from the City of Santa Rosa attend the Agency's negotiation meetings and Agency staff attend the City's negotiation meetings, to ensure that there are consistent understandings between all three parties related to the process and necessary agreements.

### **III. DISCUSSION**

Agency staff and Renewable Sonoma have made considerable progress in negotiating the terms of an Operations Agreement, but are now focused on specific and challenging issues that need to be addressed in order to move forward. Before Renewable Sonoma and the City can enter into a lease agreement for the property at the Laguna site, or the Agency and Renewable Sonoma can enter into an agreement for Organics Processing, the environmental analysis required pursuant to the California Environmental Quality Act must be completed. As the Agency Board knows, the CEQA process involves a considerable amount of time and resources to move forward. Renewable Sonoma's proposal is predicated on the assumption that they would receive commitments of organics flow from most or all of the Agency's members, and they are concerned that moving forward with the CEQA process without any commitment from the Agency or its members would constitute a considerable risk.

To address this concern, the focus of the parties right now is on the negotiation of an interim agreement (referred to as a "pre-development agreement") that outlines terms pursuant to which Renewable Sonoma will proceed with the CEQA, community outreach, planning and design processes necessary to move the project forward, and what will happen if the project fails to proceed, or the Agency members decide not to commit their organics flow to this facility. This agreement would not commit the Agency or its members to a specific course of action, but it would address what will happen if the contemplated Organic Materials Processing Facility fails to proceed, or if the Agency or its members decide to not commit flow to the facility. There are a number of other outstanding issues to be addressed, but this is the key focus of the parties at this point, in order to allow the CEQA process, community outreach, and other work to move forward. The City of Santa Rosa is negotiating a similar agreement with Renewable Sonoma regarding their proposed lease, which also may not be approved until the required CEQA analysis is complete.

Agency staff has discussed how we can best receive Board input and perspective as we continue to proceed with this process. At this point in the process, it would be helpful to staff to have a subcommittee of Board members who would be willing to discuss specific issues as they arise with Agency staff as negotiations continue. The Brown Act allows for the Agency to establish an "ad-hoc" subcommittee that is formed to focus on a specific issue for a finite period of time. Staff is recommending that such a committee be formed to assist staff as the negotiation process moves forward. The subcommittee would not be expected to attend or participate in negotiations, but would meet with Agency staff periodically (likely via conference call) to discuss key issues related to the process. Ideally, the subcommittee members would come from both smaller and larger jurisdictions, have a particular interest in this process and have the time to commit to semi-regular meetings. A subcommittee can constitute any number of Board members that are less than a quorum (i.e., up to four). We are recommending a subcommittee of three be formed, to offer a range of perspectives but also be a manageable size.

#### **IV. FUNDING IMPACT**

There are no funding impacts from this item, as it is a discussion item.

#### **V. ATTACHMENTS**

None



Agenda Item #: 6  
Cost Center: Organics  
Staff Contact: Tan  
Agenda Date: 8/21/2019  
Approved By: LL

## **ITEM: Compostable Products**

### **I. RECOMMENDED ACTION / ALTERNATIVES TO RECOMMENDATION**

Direct staff to proceed with the composting facility contract negotiations where the only materials accepted are food scraps, yard debris, and unlined fiber products containing no bioplastics.

### **II. BACKGROUND**

In the past few years, several aggressive pieces of legislation have been signed into state law, with goals of curbing greenhouse gas emissions through landfill diversion of organic material such as yard debris and food scraps. AB 1826 Mandatory Commercial Organics Recycling (MORE) and SB 1383 Short-lived Climate Pollutants (SLCP) both require businesses, schools, multifamily residential dwellings, and other commercial entities to have their organics hauled away for composting or diverted from landfill through alternative means. In response to these laws, some affected commercial entities have enquired about compostable bags and food service ware (e.g., plates, cups, and utensils).

The current organics collection program in Sonoma County prohibits all compostable products containing bio-plastics. However, in response to public interest, several SCWMA board members requested during the August 2018 meeting that staff investigate whether compostable bio-plastic products could be accepted at the new proposed composting facility. Shortly thereafter, the Zero Waste Task Force assembled an ad hoc Compostable Products Committee, whose participants included Agency staff, compostable products manufacturers, industry consultants, a compost facility operator, and other community stakeholders. This staff report and its attachments detail the Committee's findings.

### **III. DISCUSSION**

Over the past year, the Committee researched other composting facilities in California and around the country where compostable bio-plastic products are accepted. The Committee also spoke to industry experts, reviewed research papers, and eventually produced four potential options for the SCWMA board to consider:

- Only Unlined Fiber Products Accepted
- Single-stream; All BPI-certified Compostable Food Service Ware Accepted
- Dual-Stream; All BPI-certified Compostable Food Service Ware Accepted
- Out-haul Compostable Products to Napa



The Unlined Fiber Products option represents a scenario in which the composting facility is built as proposed and continues to prohibit all compostable products containing bio-plastic. The other three options represent scenarios in which all compostable products are accepted, with differences in how the incoming material is handled and processed. The latter three options may help increase landfill diversion, but they all require an increase in capital expenses for construction and annual operating expenses. The pros and cons of each option are listed in the attached Compostable Products Committee report.

After careful consideration, staff recommend the Unlined Fiber Products Only option as the best course of action. In all scenarios where the proposed composting facility accepts compostable products, the annual operating cost increases by around \$1,000,000 while annual revenue decreases by \$100,000 - \$2,000,000. The steep decrease in revenue is due to a change in the economic value of the finished compost. Because the California Department of Food and Agriculture (CDFA) regards compostable products as synthetic materials, their inclusion in the composting process prevents the finished compost from being CDFA-listed. In other words, CDFA-listed compost can be used in organic crop and food production, and it sells at \$25 for every cubic yard. Non CDFA-listed compost cannot be used in organic crop and food production, and it sells at \$5 for every cubic yard. Full details can be found in the attached Cost Analysis spreadsheet.

Staff are not opposed to accepting compostable bio-plastic products at the proposed composting facility if the compost can remain CDFA-listed. The Biodegradable Products Institute (BPI) is the main certifier of compostable products in North America, and they are currently appealing to have compost processed with compostable products be CDFA-listed. If BPI succeeds in this endeavor, the financial barrier associated with accepting compostable products will mostly disappear.

Staff still strongly advocate for waste reduction above all else. Although bio-plastic compostable products may be a step above conventional plastic products, they still promote a single-use, throwaway culture. Unless they are processed at the proper levels of oxygen, temperature, and moisture, compostable bio-plastics do not break down in the ocean, on the side of the road, or in a landfill. For these reasons, Alameda, Santa Monica, Canada, and the EU Parliament have recently banned all single-use plastics, including compostable bio-plastics.

#### IV. FUNDING IMPACT

Numbers in red represent a cost or loss.

OPTION	Change in CAPITAL EXPENSE	Change in OPERATING EXPENSE	Change in REVENUE	Change in ANNUAL COST
Unlined fiber only	\$0	\$0	\$0	\$0
Single stream	\$0	\$900,000	\$2,000,000	\$2,900,000
Dual stream	\$141,333	\$1,033,536	\$500,000	\$1,674,869
Out-haul to Napa	\$0	\$1,003,536	\$125,000	\$1,128,536

## **V. ATTACHMENTS**

Staff PowerPoint presentation – Compostable Products  
Compostable Products Committee report

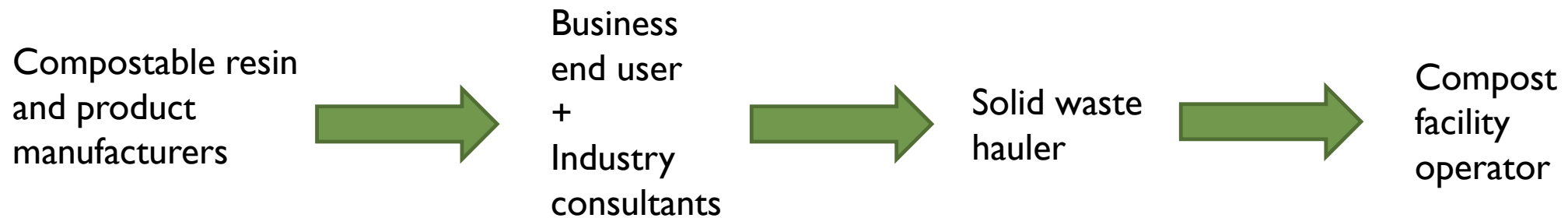


# COMPOSTABLE PRODUCTS

Presented during the August 2019 Board meeting  
by Xinci Tan

# SOME CONTEXT

- Aug 2018 – Board requests compostable products investigation
- Zero Waste Task Force → ad-hoc Compostable Products Committee

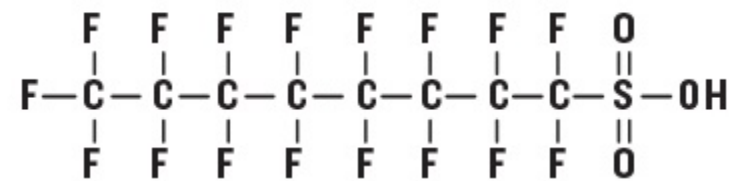


# TERMS

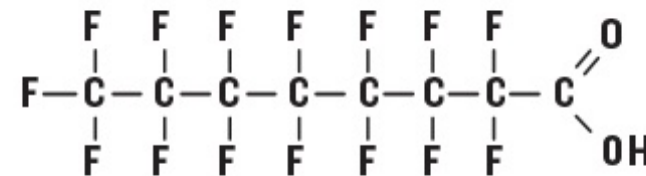
- **Organics** – organic matter or material; containing carbon
- **CDFA-listed** – compost may be used in organic crop/food production
- **Biodegradable Products Institute (BPI)** – certifies compostable products
- **Polylactic Acid (PLA)** – bio-base plastic polymer
  
- **Aerobic composting** – with oxygen; produces CO<sub>2</sub> and compost
- **Anaerobic digestion (AD)** – without oxygen; produces biogas, digestate, and water

# QUICK NOTE ABOUT PFAS

- Polyfluorinated alkyl substances
- Man-made chemicals
  - C – F compounds not in nature
  - Bond is very strong
  - Gives water-repellant and stain-resistant properties



PFOS



PFOA

# PFAS is in everyday items



Also often in bagasse compostable products

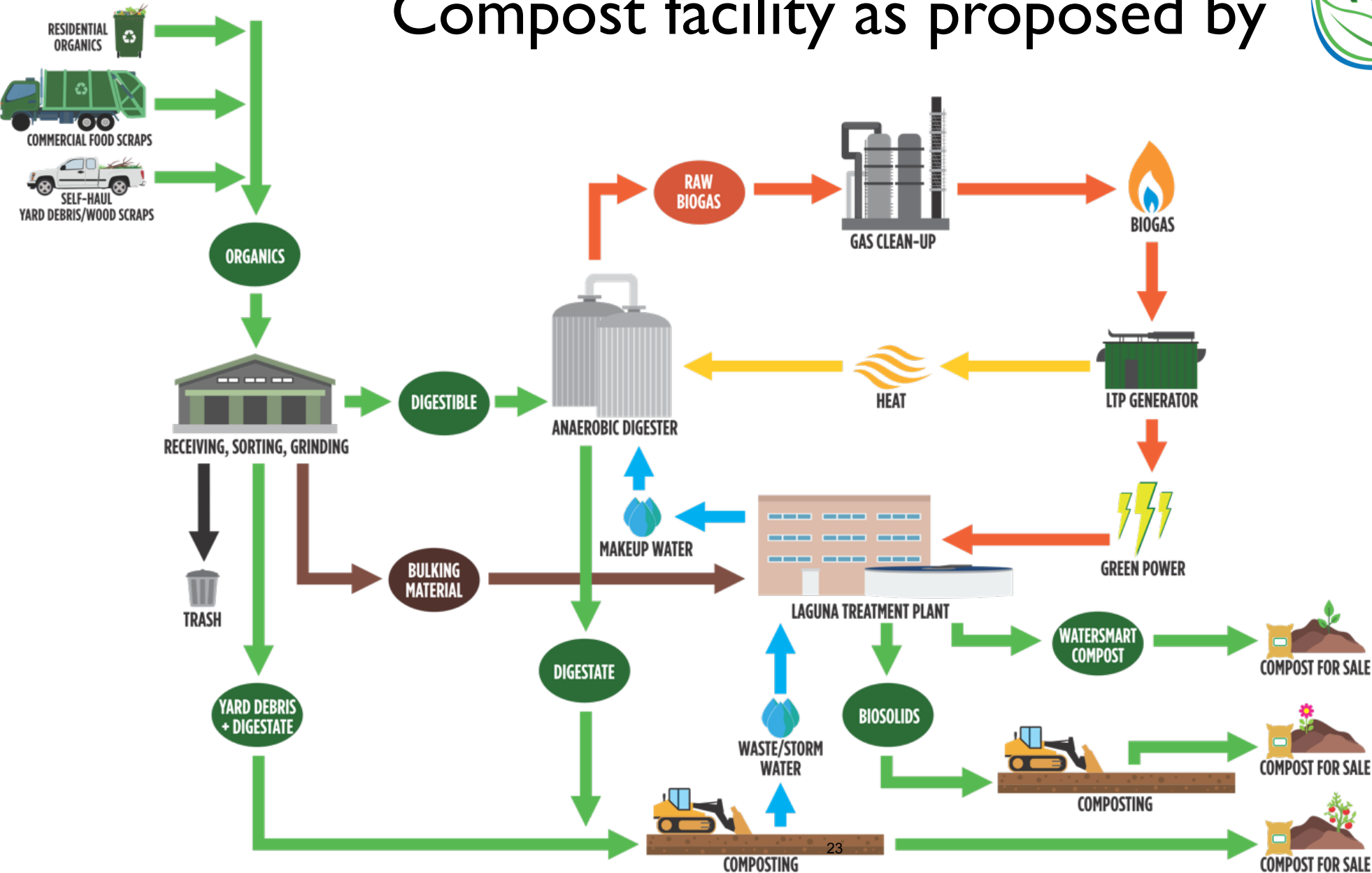


Jan 1, 2020

Products with PFAS will no longer be BPI-certified compostable.



# Compost facility as proposed by



# 4 options for accepting compostable products

Unlined fiber products only

Single-stream process;  
All BPI-certified compostable  
food service ware accepted

Dual-stream process;  
All BPI-certified compostable  
food service ware accepted

Out-haul compostable products  
to Napa

# UNLINED FIBER PRODUCTS ONLY



Yes



No

# UNLINED FIBER PRODUCTS ONLY

Pros	Cons
<ul style="list-style-type: none"><li>• No need to modify compost facility from proposal</li><li>• No need to modify education campaign or materials</li><li>• Finished compost is CDFA-listed and sells for \$25/cy</li></ul>	<ul style="list-style-type: none"><li>• Compostable products landfilled</li><li>• No additional landfill diversion</li><li>• Fewer sustainable purchasing options</li></ul>



**SINGLE-STREAM; ALL BPI-PRODUCTS ACCEPTED**



Yes



No

# SINGLE-STREAM; ALL BPI-PRODUCTS ACCEPTED

Pros	Cons
<ul style="list-style-type: none"><li>• Minimal modification to facility as proposed</li><li>• Compostable products will not be landfilled</li><li>• May increase landfill diversion</li><li>• Compostable products may be alternative source of carbon</li></ul>	<ul style="list-style-type: none"><li>• Finished compost is not CDFA-listed and sells for \$5/cy</li><li>• New education campaign needed</li><li>• May attract lookalike petroleum-based products</li></ul>



# DUAL-STREAM; ALL BPI-PRODUCTS ACCEPTED

## I. Opt-in commercial accounts



Yes



No

DUAL-STREAM; ALL BPI-PRODUCTS ACCEPTED



## 2. Residential and all other commercial accounts



The image shows two disposable cups side-by-side. On the left is a brown paper cup with a green logo that says "100% Certified Compostable". On the right is a clear plastic cup with a green band around its middle that also says "100% Certified Compostable".



# DUAL-STREAM; ALL BPI-PRODUCTS ACCEPTED

Pros	Cons
<ul style="list-style-type: none"><li>• A portion of finished compost will be CDFA-listed; \$25/cy</li><li>• Compostable products will not be landfilled</li><li>• May increase landfill diversion</li><li>• Compostable products may be alternative source of carbon</li></ul>	<ul style="list-style-type: none"><li>• Cost of construction and operation increased</li><li>• A portion of finished compost is not CDFA-listed; \$5/cy</li><li>• New education campaign needed</li><li>• May attract lookalike petroleum-based products</li><li>• Hauler routes must be reconfigured</li></ul>

## OUT-HAUL COMPOSTABLES TO NAPA

I. Opt-in commercial accounts processed in Napa County



# OUT-HAUL COMPOSTABLES TO NAPA

## 2. Residential and all other commercial accounts processed in Sonoma County



Yes



No



# DUAL-STREAM; ALL BPI-PRODUCTS ACCEPTED

Pros	Cons
<ul style="list-style-type: none"><li>• Finished compost in Sonoma County will be CDFA-listed; \$25/cy</li><li>• Minimal modification to facility</li><li>• Compostable products will not be landfilled</li><li>• May increase landfill diversion</li></ul>	<ul style="list-style-type: none"><li>• Less overall compost produced in Sonoma County = less revenue</li><li>• Gate rate \$200/ton charged by Napa decreases revenue</li><li>• Less material for AD; less biogas</li><li>• Transportation cost and emissions increased</li><li>• Hauler routes must be reconfigured</li><li>• New education campaign needed</li><li>• May attract lookalike petroleum-based products</li></ul>

# COST BREAKDOWN

Option	Unlined fiber products (baseline)	Single-stream	Dual-stream	Out-haul to Napa
Δ Sorting Cost	\$0	\$0	\$103,533	\$103,533
Δ Disposal Cost	\$0	\$900,000	\$900,000	\$900,000
Δ Blending Cost	\$0	\$0	\$52,000	\$0
Δ Grinding Cost	\$0	\$0	\$0	\$0
Δ Conveying Cost	\$0	\$0	\$25,000	\$0
Δ Land Cost	\$0	\$0	\$141,333	\$0
Δ Screening Cost	\$0	\$0	\$5,000	\$0

# COST SUMMARY

Option	Unlined fiber products only (baseline)	Single-stream; all BPI-certified products	Dual-stream; all BPI-certified products	Out-haul compostables to Napa
Change in Capital Expense	\$0	\$0	\$141,333*	\$0
Change in Operating Expense	\$0	\$900,000	\$1,085,533	\$1,003,533
Change in Revenue	\$0	\$2,000,000	\$500,000	\$125,000
Change in Annual Cost	\$0	\$2,900,000	\$1,726,866	\$1,128,533

\* Total cost \$2,119,995 amortized over 15 years

# **Compostable Products Committee**

## **Summary Report**

June 2019

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### **Purpose of the Compostable Products Committee**

In August 2018, the Sonoma County Waste Management Agency (SCWMA) board requested an analysis into the feasibility of accepting compostable food serviceware in the new proposed compost facility as an alternative to single-use plastic products. In response, the Zero Waste Task Force created the Compostable Products Committee (CPC) and tasked them to investigate the issue. The CPC acknowledges that landfilling organic materials contributes to the problem of greenhouse gases generation. While this an important issue it is beyond the focus of this project.

### **Mission of the Compostable Products Committee**

The mission of the CPC is to:

Recognize the challenges and benefits of including compostable food serviceware as part of the Sonoma County organics diversion program, and to identify potential options for effectively resolving those challenges that could allow compostable food serviceware to be a component of organics diversion programs.

To accomplish this, CPC members elected to educate themselves on the challenges and successes that:

- 1) composting facilities encounter when accepting diverse, single-use compostable products, and how facilities have overcome those challenges in order to accept those products;
- 2) product manufacturers face in getting compostable products accepted at commercial compost facilities, and the methods employed for creating a more collaborative approach to acceptance;
- 3) municipalities face when making decisions and managing organics collection programs for their residents, businesses and institutions, and what tools they've used to minimize contamination going to composting facilities.

The CPC analyzed these challenges and successes in order to determine solutions for the acceptance of compostable products as part of the Sonoma County organics diversion program, while minimizing contamination and maintaining the production of a high-quality compost product. Such solutions may include, but not be limited to, education, ordinances, mechanical/process adaptations of the composting process, and pilot projects/field testing of products.

### **Compostable Products Committee Composition**

The CPC is comprised of individuals representing multiple sectors of the solid waste and recycling industry including compostable resin and product manufacturers, compostable product end-user, sustainability consultant, compost facility operator, compost industry associate, solid waste hauler, County staff member, community stakeholder, and zero-waste event consultant. The requirements of the Brown Act do not apply to the CPC as membership is voluntary and it is non-governmental in its composition and administration.

### **Compostable Products Committee Process**

Since September 2018, the CPC has spoken with industry experts, reviewed white papers, and researched case studies. After many hours of discussion and collaboration, the CPC has produced four viable options. Each option

presents a different solution either by including or excluding certain compostable products, while also exploring the impact and facility modifications that result.

Due to the complex nature of this topic, the CPC chose to submit these four options and their analyses without making formal recommendations:

- Unlined Fiber Products Only
- Single-stream Process; All BPI-certified Food Serviceware Accepted
- Dual-stream Process; All BPI-certified Food Serviceware Accepted
- Out-haul Compostable Food Serviceware

### **Glossary of Terms**

**Anaerobic digestion (AD):** Natural process in which microorganisms break down organic materials in the absence of oxygen. The end products include digestate, water, and biogas. In this instance, “organic” means coming from or made of plants or animals. The initials “AD” may refer to the process of anaerobic digestion or the built system where anaerobic digestion takes place, also known as a digester.

**Biodegradable Products Institute (BPI):** A North American organization that certifies compostable products and packaging. The certification program ensures that products and packaging displaying the BPI logo have been independently tested and verified according to scientifically based standards. They promote best practices for the diversion and recovery of compostable materials through municipal and commercial composting.

**California Department of Food and Agriculture (CDFA):** State department responsible for protecting and promoting agriculture. They test and inspect fertilizing materials such as compost, and the products that pass are registered in the Organic Input Materials (OIM) program, effectively supporting the claim that the product can be used in organic crop and food production.

**Clopyralid:** (3,6-dichloro-2-pyridinecarboxylic acid) Selective herbicide used for control of broadleaf weeds, especially thistles and clovers. Clopyralid is known for its ability to persist in dead plants and compost. In a few highly publicized cases, it has been shown to accumulate phytotoxic levels in finished compost.

**Compostable Food Serviceware:** includes cold and hot cups, plates, bowls, utensils, clamshells, and bags made with paper, fibers, bamboo, other organic materials, or containing compostable plastics, such as PLA (defined below), instead of traditional petroleum-based plastic.

**Covered Aerated Static Pile (CASP):** Refers to any of a number of compost systems used to biodegrade organic material without physical manipulation during primary composting. Blended compostable material is usually placed on perforated piping, providing air circulation for controlled aeration, and is then covered with large tarpaulins or a biofilter.

**Digestate:** The solid material remaining after anaerobic digestion of a biodegradable feedstock. The other main products of anaerobic digestion are water and biogas.

**Feedstock:** A raw material to supply or fuel a machine or industrial process.

**Food scraps:** All excess food, including surplus, spoiled, or unsold food such as vegetables and culls (lower quality vegetables or trimmings such as onion peels or carrot tops), as well as plate scrapings. Food scraps are also commonly called food remnants, food residuals, or food waste.



Other Compostable Paper: Items that were soiled with food or water during use. This type includes paper towels, paper plates, waxed paper, tissues, waxed corrugated cardboard, fast food wrappers, waxed paper, and other papers (e.g., pizza boxes and pizza box inserts).

Overs: Overs are also called compost/mulch-overs. They are large, woody parts of the compost/mulch piles that have not completely broken down after a full composting cycle and will not pass through a screen. It is common practice to mix overs back into the active compost pile.

Pathogen Reduction: Pathogens are organisms that can cause disease within another host organism. Host organisms may be microbes, plants, wildlife, livestock, pets, or humans. High heat produced during the composting process is an effective means for reducing pathogen concentrations in a variety of organic materials, including manure, yard trimmings, and biosolids (sewage sludge).

Polylactic Acid (PLA): A bio-based plastic polymer commonly manufactured through the conversion of plant sugars into lactic acid. These plant sugars typically come from feedstocks such as corn, cassava, sugar cane and sugar beets. It is an alternative to petroleum-based plastics.

Yard debris: Compostable materials 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.

Wood scraps: Debris consisting of wood pieces or particles which are generated from the manufacturing or production of wood products, harvesting, processing, or storage of raw wood materials, or construction and demolition activities. Wood scraps excludes chemically-treated wood.

### **Summary of Renewable Sonoma Proposal**

Renewable Sonoma proposes to bring a state of the art composting facility to Sonoma County that will meet the regulatory requirements of CalRecycle, Water Board, Bay Area Air Quality Management District, etc. In keeping with the track record of its predecessor Sonoma Compost the facility will produce high quality, mature compost, and a variety of mulches that meet the needs of our community.

The project includes the development of a receiving building to accept curbside organics (yard debris and food scraps), commercial food scraps, self-haul yard debris, self-haul wood scraps, manures, food-soiled paper, fiber packaging material, and others to be agreed upon (including compostable plastics). All materials will have specific drop-off locations within the building so that they can be processed for the best and highest use. The receiving building will have a sort line for the curbside green cart material to separate non-organic recyclables and garbage from desired compostables.

### **Renewable Sonoma Composting Stream Options**

As mentioned earlier the CPC examined four options:

- Unlined Fiber Products Only
- Single-stream Process; All BPI-certified Food Serviceware Accepted
- Dual-stream Process; All BPI-certified Food Serviceware Accepted
- Out-haul Compostable Food Serviceware

For all options please note that because products with fluorinated compounds (PFOS) will no longer be BPI-certified starting January 1, 2020, they will not be a concern by the time Sonoma County's new compost facility opens.

## OPTION – UNLINED FIBER PRODUCTS ONLY

### OVERVIEW

This option is “business as usual.” This option includes BPI-certified and non-BPI certified fiber products such as plates, bowls, clamshells, and bamboo flatware with no PLA or plastic coating. It prohibits BPI-certified compostable food serviceware containing compostable plastic. The resulting finished compost will be CDFA-listed, however, any compostable food serviceware used in the community will continue to be sent to landfill.

Accepted Materials	Prohibited Materials
<ul style="list-style-type: none"><li>• Food scraps</li><li>• Yard debris</li><li>• Unlined paper products (e.g., paper towels, napkins, plates/bowls with no PLA or plastic coating)</li><li>• BPI-certified fiber only products</li></ul>	<ul style="list-style-type: none"><li>• All BPI-certified compostable food serviceware except unlined fiber products</li><li>• Traditional petroleum-based plastics</li><li>• Corrugated cardboard</li><li>• Waxed cardboard/paper products</li><li>• Glass, metal, and other recyclable materials that should go into the blue bin</li><li>• Animal waste and other trash items that should go into the gray/black bin</li></ul>

### PROS AND CONS

Pros	Cons
<ul style="list-style-type: none"><li>• No need to change current education campaign or materials</li><li>• No need to modify compost facility construction plans</li><li>• The finished compost will be CDFA-listed, bringing in higher revenue than compost that is not CDFA-listed</li></ul>	<ul style="list-style-type: none"><li>• All BPI-certified compostable food serviceware used in the community will continue to be landfilled</li><li>• Any potential increase of landfill diversion as a result of using compostable food serviceware will be lost</li><li>• Due to the limited availability of unlined fiber products, businesses have few sustainable purchasing options for food serviceware</li></ul>

### FACILITY MODIFICATIONS

None.

### COSTS

See attached cost analysis spreadsheet.

## ESTIMATED ADDITIONAL WASTE DIVERSION

It is estimated additional organic materials will be diverted from the landfill with this option but the tonnage is unknown. A waste characterization study would be required to determine the estimated tonnages.

## POLICY AND EDUCATION

No changes.

## OPTION – SINGLE-STREAM PROCESS; ALL BPI-CERTIFIED FOOD SERVICEWARE ACCEPTED

### OVERVIEW

In addition to yard debris and food scraps, this option involves the collection and processing of all BPI-certified compostable food serviceware. It has the potential to increase landfill diversion without increasing the cost of facility construction and operation. However, the inclusion of compostable plastics will prevent the finished compost from being CDFA-listed, resulting in a large loss of revenue.

Accepted Materials	Prohibited Materials
<ul style="list-style-type: none"> <li>Food scraps</li> <li>Yard debris</li> <li>All BPI-certified compostable food service ware (e.g., coffee cups, plates, utensils, clamshells, and bags)</li> </ul>	<ul style="list-style-type: none"> <li>Traditional petroleum-based plastics</li> <li>Corrugated cardboard</li> <li>Waxed cardboard/paper products</li> <li>Glass, metal, and other recyclable materials that should go into the blue bin</li> <li>Animal waste and other trash items that should go into the gray/black bin</li> </ul>

### PROS AND CONS

Pros	Cons
<ul style="list-style-type: none"> <li>Any BPI-certified compostable food serviceware used in the community can be composted and not landfilled.</li> <li>Accepting compostable food serviceware may increase diversion of food scraps from the landfill.</li> <li>The use of compostable food serviceware may provide an alternative source of carbon during the composting process.</li> <li>There will be minimal modification to the facility as proposed.</li> <li>Compostable Food Serviceware – both paper and plastic – provide alternatives to almost all conventional petroleum-based plastic food serviceware.</li> <li>Numerous composters and cities have found that non-compostable plastic products account for a majority of the contamination at composting operations and when replaced by equivalent compostable products contamination can be significantly reduced.</li> </ul>	<ul style="list-style-type: none"> <li>The finished compost will not be CDFA-listed, reducing its marketability and causing a large loss of revenue</li> <li>A new education campaign must be launched to help consumers identify what is and isn't BPI-certified compostable food serviceware</li> <li>Accepting compostable food serviceware may attract look-alike petroleum-based products</li> <li>Most certified compostable products are not marine degradable. If improperly disposed or as litter, compostable plastics still contaminate waterways and land, and harm fish and wildlife.</li> </ul>

## FACILITY MODIFICATIONS

Pre/post screening equipment for removal of look-alike petroleum-based plastic.

## COSTS

See attached cost analysis spreadsheet.

## ESTIMATED ADDITIONAL WASTE DIVERSION

It is estimated additional organic materials will be diverted from the landfill with this option, but the tonnage is unknown. A waste characterization study would be required to determine the estimated tonnages.

## POLICY AND EDUCATION

A new countywide education campaign must be launched to help consumers identify what is and isn't BPI-certified compostable food serviceware. Since the Model Polystyrene Ordinance already includes language requiring that food providers replace any disposable food serviceware with recyclable or certified compostable alternatives, more outreach is needed to encourage jurisdictions to adopt it. Additionally, a plan for enforcement should be put in place.

## OPTION – DUAL-STREAM PROCESS; ALL BPI-CERTIFIED FOOD SERVICEWARE ACCEPTED

### OVERVIEW

This option involves building a dual-stream facility to process all BPI-certified compostable food serviceware (e.g., plates, cups, lids, straws, clamshells, and cutlery) in addition to yard debris and food scraps. It has the potential to increase landfill diversion, but it will also increase the cost of facility construction and operation. Because the inclusion of compostable plastics will prevent the finished compost from being CDFA-listed, material collected from commercial entities who choose to use compostable food serviceware will be processed separately. The portion of finished compost that is not CDFA-listed will be less marketable and result in an overall lower revenue.

Accepted Materials	Prohibited Materials
<p>Residential and General Commercial Stream:</p> <ul style="list-style-type: none"> <li>Food scraps</li> <li>Yard debris</li> </ul> <p>Opted-in Commercial Stream:</p> <ul style="list-style-type: none"> <li>All BPI-certified compostable food serviceware (e.g., coffee cups, plates, utensils, clamshells, and bags)</li> <li>Food scraps</li> <li>Yard debris</li> </ul>	<ul style="list-style-type: none"> <li>Traditional petroleum-based plastics</li> <li>Corrugated cardboard</li> <li>Waxed cardboard/paper products</li> <li>Glass, metal, and other recyclable materials that should go into the blue bin</li> <li>Animal waste and other trash items that should go into the gray/black bin</li> </ul>

### PROS AND CONS

Pros	Cons
<ul style="list-style-type: none"> <li>A portion of the finished compost will still be CDFA-listed</li> <li>Any BPI-certified compostable food serviceware used in the community can be composted and not landfilled</li> <li>Accepting compostable food serviceware may increase diversion of food scraps from the landfill</li> <li>The use of compostable food serviceware may provide an alternative source of carbon during the composting process.</li> </ul>	<ul style="list-style-type: none"> <li>The capital cost of construction and operating costs every year thereafter will be higher</li> <li>A portion of the finished compost will not be CDFA-listed, which will decrease overall revenue</li> <li>A new education campaign must be launched to help consumers identify what is and isn't BPI-certified compostable food serviceware</li> <li>Accepting compostable food serviceware may attract look-alike petroleum-based products</li> <li>Hauler collection routes must be reconfigured since material from opted-in commercial entities will have to be in separate trucks from the rest</li> </ul>

## FACILITY MODIFICATIONS

- Additional land to accommodate added equipment and space for processing;
- Two separate sets of equipment to process two different streams of material;
- Additional labor to sort material and operate equipment;
- Pre/post screening equipment for removal of look-alike petroleum-based plastics.

## COSTS

See attached cost analysis spreadsheet.

## ESTIMATED ADDITIONAL WASTE DIVERSION

It is estimated additional organic materials will be diverted from the landfill with this option but the tonnage is unknown. A waste characterization study would be required to determine the estimated tonnages.

## POLICY AND EDUCATION

Commercial entities must be required to opt-in and notify the hauler before placing any compostable food serveware in their green container. For these opted-in commercial entities, staff or the hauler will need to provide education on what products are acceptable, namely how to identify and purchase BPI-certified products only. Since the Model Polystyrene Ordinance already includes language requiring that food providers replace any disposable food serveware with recyclable or certified compostable alternatives, more outreach is needed to encourage jurisdictions to adopt it. Additionally, a plan for enforcement should be put in place.

## OPTION – OUT-HAUL COMPOSTABLE FOOD SERVICEWARE

### OVERVIEW

In addition to yard debris and food scraps, this option allows for the collection of all BPI-certified compostable food serviceware. Similar to the Dual-stream option, commercial entities who choose to use compostable food serviceware must notify the hauler, and their material will be collected separately. However, this second stream will not be processed in Sonoma County but rather out-hauled to Napa Recycling. The rest of material processed within Sonoma County will remain CDFA-listed. Although this has the potential to increase landfill diversion without increasing the cost of facility construction and operation, out-hauling a portion of the commercial stream will mean less overall compost produced within Sonoma County, thereby decreasing revenue.

Accepted Materials	Prohibited Materials
<p>Residential and General Commercial Stream:</p> <ul style="list-style-type: none"> <li>Food scraps</li> <li>Yard debris</li> </ul> <p>Opted-in Commercial Stream:</p> <ul style="list-style-type: none"> <li>All BPI-certified compostable food serviceware (e.g., coffee cups, plates, utensils, clamshells, and bags)</li> <li>Food scraps</li> <li>Yard debris</li> </ul>	<ul style="list-style-type: none"> <li>Traditional petroleum-based plastics</li> <li>Corrugated cardboard</li> <li>Waxed cardboard/paper products</li> <li>Glass, metal, and other recyclable materials that should go into the blue bin</li> <li>Animal waste and other trash items that should go into the gray/black bin</li> </ul>

### PROS AND CONS

Pros	Cons
<ul style="list-style-type: none"> <li>All of the finished compost produced in Sonoma County's facility will be CDFA-listed</li> <li>There will be minimal modification to the facility as proposed</li> <li>Any BPI-certified compostable food serviceware used in the community can be composted and not landfilled</li> <li>Accepting compostable food serviceware may increase diversion of food scraps from the landfill</li> </ul>	<ul style="list-style-type: none"> <li>Out-hauling material will decrease the amount of finished compost produced in Sonoma County and therefore decrease overall revenue</li> <li>The gate rate charged by Napa for out-hauled material will decrease overall revenue</li> <li>Out-hauling material will limit the amount of material going into the anaerobic digestion part of the proposed facility, decreasing the amount of natural gas produced</li> <li>Hauler collection routes must be reconfigured since material from opted-in commercial entities will have to be in separate trucks from the rest</li> <li>Out-hauling material increases transportation costs and overall</li> </ul>



	<p>greenhouse gas emissions</p> <ul style="list-style-type: none"> <li>• A new education campaign must be launched to help consumers identify what is and isn't BPI-certified compostable food serveware</li> <li>• Accepting compostable food serveware may attract look-alike petroleum-based products</li> </ul>
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## FACILITY MODIFICATIONS

None.

## COSTS

See attached cost analysis spreadsheet.

## ESTIMATED ADDITIONAL WASTE DIVERSION

It is estimated additional organic materials will be diverted from the landfill with this option, but the tonnage is unknown. A waste characterization study would be required to determine the estimated tonnages.

## POLICY AND EDUCATION

Commercial entities must be required to opt-in and notify the hauler before placing any compostable food serveware in their green container. For these opted-in commercial entities, staff or the hauler will need to provide education on what products are acceptable, namely how to identify and purchase BPI-certified products only. Since the Model Polystyrene Ordinance already includes language requiring that food providers replace any disposable food serveware with recyclable or certified compostable alternatives, more outreach is needed to encourage jurisdictions to adopt it. Additionally, a plan for enforcement should be put in place.

## COSTS

Numbers in red represent a cost or loss.

Option	Unlined fiber products only (baseline)	Single-stream; all BPI-certified products	Dual-stream; all BPI-certified products	Out-haul compostables to Napa
Change in Capital Expense	\$0	\$0	\$141,333*	\$0
Change in Operating Expense	\$0	\$900,000	\$1,085,533	\$1,003,533
Change in Revenue	\$0	\$2,000,000	\$500,000	\$125,000
Change in Annual Cost	\$0	\$2,900,000	\$1,726,866	\$1,128,533

\* Total cost \$2,119,995 amortized over 15 years



Agenda Item #: 7  
Cost Center: All  
Staff Contact: Walsh  
Agenda Date: 8/21/2019  
Approved by: LL

## **ITEM: Discussion of Draft Template Agreement Regarding the Adoption of the Model Polystyrene Ordinance**

### **I. RECOMMENDED ACTION / ALTERNATIVES TO RECOMMENDATION**

That the Agency Board discuss the enclosed template agreement and provide feedback or suggestions to Agency Counsel. If the template agreement is satisfactory, Board members whose member agencies plan to adopt the model polystyrene ordinance may refer the draft agreement to their City Attorney/County Counsel offices for consideration.

### **II. BACKGROUND**

In 2017, the Agency members approved the Amended and Restated Joint Exercise of Powers Agreement for the Sonoma County Waste Management Agency (the "JPA Agreement") which set forth, among other things, the purpose and powers of the Agency. The JPA Agreement establishes the four "core programs" of the Agency (Household Hazardous Waste, the Organic Materials, Education and Reporting), but also gives the Agency the authority to develop and implement additional programs that are related to the Agency's overarching purpose of increasing waste diversion in the jurisdictions of the member agencies.

One of the key types of additional programs that the Agency planned to develop were "model ordinances" that member agencies could adopt to address specific issues related to waste diversion and reduction. These ordinances would be provided to individual member jurisdictions for their consideration and adoption. However, some of the jurisdictions expressed concern that they could be subject to potential liability from the adoption of an ordinance that may be deemed a threat by certain industries, and as a result those members would be reluctant to adopt model ordinances if they posed legal risk to their jurisdiction. This concern stemmed in part from challenges that were brought throughout the State challenging ordinances that banned or limited the use of plastic bags. Some (but not all) jurisdictions also indicated that they would prefer to look to the Agency to implement these additional programs, rather than putting additional burden on City staff.

As a compromise to address these concerns, the JPA Agreement provides that the Agency will be responsible for the cost of the development of additional programs (including model ordinances), including the research, preparation and drafting of the additional program, any required environmental analysis, and the cost to indemnify and defend the individual members that are made party to a claim or lawsuit challenging the validity of the program. (See JPA Agreement, Sec. 5.C.) However, if any members would like the Agency to implement and or enforce the proposed program, then each agency would have to bear the reasonable cost of the Agency's implementation and/or enforcement in their jurisdiction. The logic behind this distinction was that every member would have access to the model ordinance and associated materials, and could use those materials as they see fit. However, if some but not all jurisdictions request that

the Agency enforce the model ordinance, then only those agencies that take advantage of that service should pay for it.

The JPA Agreement contemplates that both the indemnity and the reimbursement to the Agency for administration/enforcement services would be addressed in a separate agreement between the Agency and individual members.

The Agency has prepared a model ordinance prohibiting the use and sale of products containing polystyrene foam and taking other measures to require or encourage the use of compostable or recyclable disposable food service ware and to encourage the use of reusable food service ware (the "Polystyrene Ordinance"). Agency staff is working on developing outreach/educational materials and an implementation schedule that can be used to implement the Polystyrene Ordinance, if adopted by individual jurisdictions. In conjunction with this process, Agency Counsel has prepared a draft template agreement that would provide for indemnification of individual members from claims challenging the validity of the Polystyrene Ordinance, and for those members that desire that the Agency administer and enforce the Polystyrene Ordinance, terms pursuant to which the members will reimburse the Agency for the cost of such administration and enforcement activities.

### **III. DISCUSSION**

The template agreement consists of a base agreement that could be entered into by any member that adopts the model ordinance, and provides that the Agency will indemnify, defend and hold harmless the member against any claims or lawsuits that challenge the validity of the Polystyrene Ordinance, including challenges made pursuant to CEQA. The template agreement also includes highlighted language that would only be included in the event that the member wants the Agency to take responsibility for the administration and enforcement of the Polystyrene Ordinance.

The "program" that is being developed by the Agency includes the Polystyrene Ordinance, the education/outreach materials and the implementation schedule being developed by Agency staff. These materials are available to all members, and the Agency assumes the responsibility for the costs of generating those materials. However, if individual agencies want the City to administer the program on their behalf by responding to complaints, investigating potential violations, issuing warning notices to violators, etc., then those members will have to enter into an agreement to reimburse the Agency for those costs.

The highlighted language, which addresses the administration and enforcement terms, provides that the Agency would provide services such as responding to complaints, conducting investigations, reviewing and making recommendations on exemptions from the Ordinance, issuing warning notices and coordinating with the City Attorney's office on further enforcement action. The agreement does not contemplate that the Agency would take steps such as levying fines or issuing administrative citations without consulting with the City Attorney's office. While we would need to discuss with individual jurisdiction, it would be advisable to discuss with the affected members and their legal counsel before taking more costly and time consuming measures of that type.

The highlighted language also provides that the Agency would be reimbursed on a quarterly basis, and sets a cap on the amount that would be spent on enforcement per year. If the Agency reaches the not to exceed amount on enforcement costs, the Agency and member would meet to

discuss how to address any needed enforcement for the remainder of the year.

This agreement is provided to the Board for discussion purposes, to determine whether it meets the Board members expectations on how to address the implementation of “model ordinances” under the JPA Agreement. This was a topic of significant discussion during the development of the JPA Agreement, and this is the first model ordinance to be implemented under this new system. It will likely serve as a model to be used with future model ordinances when put into final form. If it meets the members expectations, it can be passed on to the city attorneys/county counsel for interested members for review and comment.

#### **IV. FUNDING IMPACT**

There is no funding impact directly associated with this item. In the event that the Agency enters into future agreements with members, there could be potential costs associated with indemnifying member agencies, and with administering/enforcing the Polystyrene Ordinance. The administration/enforcement costs, however, would be reimbursed by members.

#### **V. ATTACHMENTS**

Draft template agreement  
Draft phased implementation plan

**AGREEMENT BETWEEN CITY OF \_\_\_\_\_  
AND THE SONOMA COUNTY WASTE MANAGEMENT AGENCY  
REGARDING ADOPTION OF MODEL POLYSTYRENE ORDINANCE [OR,  
PROVIDING POLYSTYRENE ORDINANCE ADMINISTRATION SERVICES]**

THIS AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“Effective Date”), by and between the City of \_\_\_\_\_, a municipal corporation of the State of California (“City”), and the SONOMA COUNTY WASTE MANAGEMENT AGENCY, a California joint powers agency (“Agency”).

**RECITALS**

WHEREAS, the Agency is a joint powers agency established and operating pursuant to that certain Amended and Restated Joint Exercise of Powers Agreement dated March 1, 2017 (the “JPA Agreement”). The City is a member of Agency under the terms of the JPA Agreement. The Agency provides certain core programs to its member agencies, and additionally has the authority to conduct planning activities and development of regional programs that are related to the furtherance of increasing waste diversion within the members’ jurisdictions, subject to review and approval of such additional programs by the members’ governing bodies.

WHEREAS, the additional programs that may be developed by the Agency for its members include the development of model ordinances related to waste diversion which may be considered by the legislative bodies of the members and implementation of waste diversion programs in member jurisdictions that are adopted pursuant to such model ordinances; and

WHEREAS, pursuant to such authority the Agency developed a model ordinance prohibiting the use and sale of disposable food service ware and other products containing polystyrene foam (the “Polystyrene Ordinance”) and has developed educational, outreach and implementation materials to assist in the implementation of such Polystyrene Ordinance; and

WHEREAS, adoption of the Polystyrene Ordinance by City will help to reduce or eliminate the use of polystyrene foam and other non-compostable and non-recyclable disposable food service ware items, which will maximize the operating life of landfills, lessen the economic and environmental costs of waste management for businesses and residents of Sonoma County, and further protect the public health and safety of residents, the natural environment, waterways and wildlife, which is consistent with the Agency’s overarching purpose of increasing waste diversion in the jurisdictions of its members, and the Agency therefore desires to encourage member agencies to adopt the Polystyrene Ordinance; and

WHEREAS, in order to encourage its members to adopt the Polystyrene Ordinance, the Agency is willing to indemnify, defend and hold harmless individual members that are made party to any claim, suit or similar proceeding challenging the validity of the Polystyrene Ordinance, including but not limited to a challenge to such Polystyrene Ordinance under the California Environmental Quality Act (Public Resources Code §§21000 *et seq.*) (“CEQA”); and

WHEREAS, the City and Agency desire to enter into this Agreement to set forth the terms of such indemnity;

WHEREAS, the City further desires that the Agency take responsibility for the implementation and enforcement of the Polystyrene Ordinance within the City; and

WHEREAS, the Agency has the authority pursuant to Section 5.C of the JPA Agreement to implement and/or participate in the enforcement of the Polystyrene Ordinance, provided that each individual member shall bear the reasonable cost of the Agency's implementation and/or enforcement of the Polystyrene Ordinance within their respective jurisdictions; and

WHEREAS, the Agency agrees to provide such administrative and enforcement services as are specified under the Ordinance, on the terms and condition specified in this Agreement; and

WHEREAS, the costs borne by the Agency to administer and enforce the Polystyrene Ordinance within the City limits shall be reimbursed by the City.

## AGREEMENT

NOW, THEREFORE, the City and County agree as follows:

### Section 1. Incorporation of Recitals

The above recitals, including the paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

### Section 2. Responsibilities Under the Agreement

#### a. Agency Responsibilities. Agency shall do the following:

1. Subject to the terms of this Agreement, and provided that the terms of Section 2(b) below have been satisfied, the Agency shall provide outreach and educational materials, and draft administrative procedures to be used in the implementation of the Polystyrene Ordinance.

2. The Agency shall additionally serve as the City's representative in the administration and enforcement of the Polystyrene Ordinance. The administrative and enforcement services to be provided by Agency include but shall not be limited to contacting food establishments and food providers in response to complaints and conducting inspections to determine whether a violation occurred, providing technical assistance for compliance to the ordinance, reviewing and making recommendations to the City Manager on requests from exemptions from the Polystyrene Ordinance, issuing written warning notices for violations of the Polystyrene Ordinance, and coordinating with the City Attorney's office on any further enforcement action as may be allowed under the Polystyrene Ordinance ("Administration and Enforcement Services").

3. The Agency shall meet with the appropriate City personnel on an annual basis, at a time and location to be chosen convenient for both parties, to assess the status of this Agreement and to discuss any modifications thereto.

b. City Responsibilities. City shall do the following:

1. Provide the outreach and educational materials regarding the Polystyrene Ordinance to any food provider, retail vendor or special event promoter, as those terms are defined in the Polystyrene Ordinance that is applying for a business license or special event permit pursuant to the City's Municipal Code.

2. Communicate with and assist the Agency so far as reasonably appropriate in carrying out the terms of this Agreement.

3. Reimburse the Agency for the costs of the Administration and Enforcement Services provided pursuant to this Agreement. Such reimbursement shall be made pursuant to Section 3 of this Agreement.

4. Meet with the appropriate Agency personnel on an annual basis, at a time and location to be chosen convenient for both parties, to assess the status of this Agreement and to discuss any modifications thereto.

c. Agency and City Responsibilities. The responsibilities listed hereunder shall not be construed so as to preclude existing or future County or City rights and responsibilities.

Section 3. Compensation

a. In accordance with Section 5.C of the JPA Agreement, the City shall reimburse the Agency for the costs of the Administration and Enforcement Services provided pursuant to this Agreement. Agency costs will be determined on a time and materials basis at the hourly rates attached hereto as Exhibit A for Agency staff that will provide the Administration and Enforcement Services.

b. Agency shall submit quarterly invoices to City for reimbursement of Administration and Enforcement Services. The invoices shall include the time spent by each Agency employee on Administration and Enforcement Services for such City, and a description of the specific matter, vendor or retailer for which such services were provided.

c. The total costs incurred by the Agency in a single fiscal year pursuant to this Agreement shall not exceed \$ \_\_\_\_\_. In the event that Agency reaches such not to exceed amount in a given fiscal year, the City and Agency shall meet and confer to discuss the Agency either ceasing such activity for the remainder of the fiscal year, or increasing the not-to-exceed amount to allow for additional administration and enforcement work.

Section 4. Term



This Agreement shall commence on the Effective Date and shall remain in effect so long as not Terminated by either party pursuant to Section 6.

#### Section 5. Indemnification

The Agency shall indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the City) and hold harmless the City from all claims (including any and all actions, causes of action, claims, attorneys' fees, costs, demands, lawsuits, liens, and liabilities of any kind and nature) that challenge the validity of the Polystyrene Ordinance, including challenges under the California Environmental Quality Act, or the Agency's lawful administration or enforcement of the Polystyrene Ordinance as provided for in this Agreement, except if such claim is a result of City's (including its officers, employees, agents, and volunteers) administration or enforcement of the Polystyrene Ordinance, or the City's negligence or willful misconduct, then City shall indemnify and defend the Agency (with counsel selected by the City and reasonably acceptable to the Agency) from any such claim. In the event that a claim against City is initiated or filed and concerns the Polystyrene Ordinance or the Agency's administration or enforcement of the Ordinance, City agrees to fully cooperate with Agency in its attempts to resolve or defend such challenge. Each party (the "Indemnifying Party") agrees to indemnify, defend (with counsel selected by the Indemnifying Party and reasonably acceptable to the other party) and hold harmless the other party (the "Indemnified Party") from all other claims (as defined above) arising in connection with this Agreement.

#### Section 6. Termination

This Agreement may be terminated for the following reasons:

- a. Upon the termination of the Polystyrene Ordinance or a substantial change in such ordinance; or
- b. For any reason by either party at any time during the term of this Agreement, provided that written notice is given pursuant to Section 9 six (6) months prior to the effective date of termination.

#### Section 7. Conflict Between Agreement and Ordinance

Any conflict between the terms of this Agreement and the Polystyrene Ordinance shall be resolved in favor of the Polystyrene Ordinance.

#### Section 8. Applicable Laws/Venue

In the performance of the services required by this Agreement, both parties shall comply with all applicable Federal, State, County, and City statutes, ordinances, regulations, directives, and laws. The interpretation and performance of this Agreement shall be governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed in the Superior Court of the County of Sonoma.

Section 9. Notice

All notices, consents, demands, and other communications from one party to the other given pursuant to the terms of this Agreement or under the laws of the State of California, shall be deemed to have been delivered when deposited in the United States Mail, certified or registered, postage prepaid, addressed to City or County at the respective addresses specified below or to such other place as City or County may from time to time designate in a written notice to the other:

City

Attn:

Agency:

Sonoma County Waste Management Agency  
2300 County Center Dr. B100  
Santa Rosa, CA 95403  
Attn: Executive Director

Nothing herein shall prevent service of notice by other reliable means, except to the extent required by law, including but not limited to personal service, Express Mail, or other forms of reliable mail service other than the U.S. Postal Service.

Section 10. Complete Agreement.

There are no oral agreements between City and Agency affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between City and Agency or displayed by City to Agency with respect to the subject matter of this Agreement. There are no representations between City and Agency other than those contained in this Agreement, and all reliance with respect to any representations is based solely upon the terms of this Agreement.

Section 11. Amendment.

This Agreement may be amended by City and County only by a written agreement signed by both parties.

Section 12. Assignment.

Neither the City nor the Agency shall assign its rights or obligations hereunder.

Section 13. Severability.

If any provisions of this Agreement shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Agreement, and all such other provisions

shall remain in full force and effect. In the event the entire Agreement is unenforceable, then this Agreement shall immediately terminate and the revocable license described herein shall be deemed revocable.

Section 14. Attorneys' Fees.

In the event that any legal action or proceeding is commenced to enforce or interpret the provisions of this Agreement or any rights arising out of this Agreement, each party in such legal action shall bear attorneys' fees, including expert fees and the costs of enforcing any judgment.

Section 15. Non-liability of Officials, Employees and Agents.

No governing board member, official, employee, agent, or volunteer of either party shall be personally liable for any damages related to any default or breach by the other party, or for any obligations under the terms of this Agreement.

Section 16. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and may be executed by the affixing of the signatures of each of the parties to any one of such counterpart signature pages; all of such counterpart signature pages shall read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF \_\_\_\_\_,  
a municipal corporation

SONOMA COUNTY WASTE  
MANAGEMENT AGENCY,  
a California joint powers agency

By: \_\_\_\_\_  
\_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Leslie Lukacs  
Executive Director

Approved as to form

Approved as to form

By: \_\_\_\_\_  
\_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
Ethan Walsh  
Agency Counsel

**EXHIBIT A**

Agency Staff Hourly Rates

[To be inserted]

DRAFT

### Draft Phased Implementation Plan

Below is a phased implementation plan for compliance of the model ordinance

- Phase 1: Adoption of Model Ordinance per Jurisdiction and the Development of Education, Outreach and the Enforcement Plan, August 2019 to December 31, 2019
  - Develop education, outreach, and enforcement plan of Model Ordinance
  - Define the appropriate recyclable and compostable product alternatives
  - Conduct stakeholders meetings prior to the Model Ordinance presentation to City Councils meeting and Board of Supervisors meeting
  - Request that jurisdictions pass ordinance by December 31st, 2019
- Phase 2: Ordinance in Effect, January 1, 2020
  - Execute education and outreach plan
  - Create and produce education materials for print, electronic distribution, and website
  - Send ordinance introduction letters to food establishments and food providers
  - Establish compliance warning and enforcement system protocol
  - Develop system for businesses apply for exceptions
  - Develop complaint driven system for identifying food establishments and food providers who are not compliant
  - Provide business technical assistances as needed
- Phase 3: Ordinance Enforcement, January 1, 2022
  - Execute enforcement plan
  - Utilize warning and fines for food establishments and food providers that are not in compliance
  - Provide business technical assistances as needed