

Request for Proposals to Provide Yard Waste Collection and Processing

Posted: November 14, 2025

This Addendum No. 1 shall be considered part of the Request for Proposals to Provide Yard Waste Collection and Processing, Project No. 8055, and is intended to correct, change, and/or add to the documents as described below. Please make sure to complete the *Addenda Acknowledgement* form included in the *Required Forms* (Exhibit B).

Listed below are questions received with answers from SWACO:

Question #1: *Under what conditions do the office, storage bin blocks, and scale system remain with the leased Roberts Rd property if the tenant changes?*

Answer: The office, storage bin blocks, and scale system are owned by the current tenant. If the tenant changes as a result of this RFP, the new tenant could make an offer to the current tenant to purchase those items. However, this would be an independent conversation and transaction between the two (2) companies. SWACO would not be facilitating or negotiating such a transaction.

Question #2: *At Roberts Rd, under what conditions is the property currently occupied by the shooting range available to be used by this project? What would be needed to make it usable, similar to the existing yard?*

Answer: The shooting range will not be available to be used.

Question #3: *At Roberts Rd, under what conditions is the property north of the shooting range available to be used by this project?*

Answer: The property north of the shooting range may be available to be used as part of the yard waste processing facility. However, the property to the north of the shooting range should not be factored into the Proposal.

Question #4: *What would be needed to make it usable, similar to the existing yard? Is it low/wet/poorly drained? At Roberts Rd, who would pay for the yard expansion north of the existing yard?*

Answer: If it is determined that the area north of the shooting range is available to be used as part of the yard waste processing facility, SWACO will make any necessary site modifications.

Question #5: *What are the last 36 months of monthly material flows in and out of the Roberts Rd site?*

Answer: In 2023, the current vendor reported receiving 48,519 tons of material at the Roberts Road site pursuant to the SWACO contract. In 2024, they reported receiving 50,647 tons. In 2025, they have reported receiving 28,174 tons through October. SWACO does not have information about material accepted outside of

the contract with SWACO, and no information about the amount of product leaving the facility.

Question #6: Please share all tentative information related to the mentioned redesign at Roberts Rd. problems to be solved, tentative solutions, time and money estimates, etc.?

Answer: The goal of redesign is to improve traffic flow into and out of the property, make additional space available for operations under the SWACO contract, provide additional value to SWACO and Upper Arlington, and provide additional value to residents in the region who use the location. The redesign is still conceptual, so additional details are not available other than that the preliminary concept includes widening the entry road, establishing or expanding service roads within the property boundaries to improve traffic flow of yard waste vehicles, and making additional space available for operations at the location. SWACO is also exploring the possibility of making additional opportunities for residents to drop off hard to recycle materials at the location, although if this occurs it is expected to occur in an area separate from the yard waste operations.

Question #7: Specifically, what are the current and desired terms with UA and SWACO on revenue sharing related to activities beyond?

Answer: There is currently no revenue sharing at the facility, either between the vendor and SWACO, the vendor and Upper Arlington, or SWACO and Upper Arlington. There are no specific desired terms related to revenue sharing.

Question #8: Please share all current terms, contracts, and agreements?

Answer: The existing contract is attached to this addendum.

Question #9: What are the last 36 months of gross and net revenues from activities at Roberts Rd, other than zero-cost yard waste tipping?

Answer: SWACO has no information on revenues generated from activities at Roberts Road.

Question #10: What are the most lucrative and binding terms SWACO is willing to offer a tenant at Roberts Rd who makes investments there, e.g., additional credits/payments, rolling/evergreen period, etc.? What investments/activity creation are most desired?

Answer: The Roberts Road location has served as an extremely important part of the yard waste processing infrastructure in central Ohio for over twenty (20) years, and the most important objective of the RFP as a whole is to continue to have a robust network of yard waste facilities available to process residential curbside yard waste. The Roberts Road location is a high-volume location, and for that reason it is extremely important that the location continues to be operated in an efficient manner, while minimizing or eliminating any disruptions to the activities occurring on the properties adjacent to the facility. Rather than dictating terms, SWACO is pursuing selection of a contractor for this facility through an RFP process in order to allow for creative solutions to be proposed. The intent of the RFP process is to establish a five (5) year contract for operation of the facility.

While certain terms can be negotiated during establishment of the contract, the contract will be periodically re-bid through a competitive process, typically on a five (5) year cycle.

Question #11: Why is SWACO in the middle of UA and the tenant currently, and under what circumstances can a new tenant lease directly from UA? Please provide a rationale.

Answer: SWACO and Upper Arlington have a long history of partnering on management of the property and SWACO plans to continue to lease the property from Upper Arlington for the benefit of SWACO, Upper Arlington, and other communities in Franklin County that are reliant upon it for the processing of yard waste.

Question #12: What IP protection and non-compete non-disclose terms are available across the project? What activities at Roberts Rd are SWACO and UA willing to not compete with nor disclose as well as protect?

Answer: All terms are subject to negotiation. However, SWACO would not typically agree to non-compete and non-disclosure agreements for a project of this type. SWACO is open to considering intellectual property protection terms with a vendor if the legal requirements to do so are met and a compelling reason to do so exists. For example, SWACO can hold certain types of information as confidential trade secrets pursuant to requirements of State of Ohio statutes. However, SWACO is also subject to public records laws, and as a result most information held by SWACO is considered a public record that is subject to disclosure.



Attachments: Related contracts and agreements

The timeframe for questions relating to this RFP is now CLOSED.

Proposals are due no later than 1:30 p.m., November 19, 2025.

++ This completes Addendum No. 1 ++

**AGREEMENT FOR IN-DISTRICT RESIDENIAL AND MUNICIPAL YARD WASTE
PROCESSING AND COMPOSTING SERVICES BY AND BETWEEN THE SOLID
WASTE AUTHORITY OF CENTRAL OHIO AND
OHIO MULCH COMPOSTING, LLC**

This Agreement for Yard Waste Processing and Composting Services is entered into by and between the Solid Waste Authority of Central Ohio (“SWACO”), a regional solid waste authority established pursuant to Ohio Rev. Code §343.011, and Ohio Mulch Composting, LLC (“Ohio Mulch”), with a business address of 1600 Universal Road, Columbus, Ohio 43207 (collectively, the “Parties”).

WHEREAS, SWACO has determined that funding for Yard Waste Diversion Programs assures that large volumes of Source Separated Yard Waste will not be landfilled at the Franklin County Sanitary Landfill and that SWACO’s continued support of Yard Waste composting vendors will produce compost products from the Yard Waste diverted from the Franklin County Sanitary Landfill; and,

WHEREAS, pursuant to this Agreement, SWACO requires, and Ohio Mulch agrees to accept and compost the Residential and Municipal Yard Waste, as hereinafter defined, without charge to any resident of SWACO’s District; and,

WHEREAS, SWACO has determined that the consideration paid by SWACO to Ohio Mulch is necessary to assure that Ohio Mulch can operate the Ohio Mulch Facilities without charge for Residential and Municipal Yard Waste through December 31, 2025.

NOW, THEREFORE, in consideration of the mutual promises herein contained, SWACO and Ohio Mulch agree as follows:

§1 Agreement Supersedes and Replaces Prior Yard Waste Agreements. This Agreement shall have an effective date of January 1, 2023, and supersedes and replaces the Parties’ current yard waste processing agreement executed on or about November 21, 2013.

§2 Definitions. For purposes of this Agreement, the following words or phrases shall have the following indicated meanings:

- A. “Adequate Capacity” shall mean the daily tonnages at the Ohio Mulch Facilities described in Exhibit A, which is attached hereto and incorporated herein as if fully rewritten.
- B. “Annual Contract Amount” shall mean nine hundred fifty thousand and 00/100 dollars (\$950,000.00).
- C. “Calendar Year” shall mean January 1st through December 31st.
- D. “Commercial and/or Industrial Loads” shall mean any Yard Waste that does not meet the definition of Residential and Municipal Yard Waste.

- E. "Contamination" shall mean any municipal Solid Waste delivered to any Ohio Mulch Facility by its subcontractor, agent, or any independent third party which cannot be composted as Yard Waste, or which prevents the composting of Yard Waste.
- F. "Force Majeure" shall mean if and to the extent that a Party's performance of any of its obligations pursuant to this Agreement is prevented, hindered or delayed by fire, flood, earthquake, elements of nature or acts of God, acts of war, government shut-downs, parts and equipment shortages and delays, delays of third-party contractors, pandemics, emergencies, severe weather events, or any other similar cause beyond the reasonable control of such Party ("Force Majeure Event"), and such non-performance, hinderance or delay could not have been prevented by reasonable precautions, then the non-performing, hindered or delayed Party shall be excused from such non-performance, hindrance or delay, as applicable, of those obligations affected (the "Affected Services") by the Force Majeure Event for as long as the Force Majeure Event continues and, except as otherwise provided in this Agreement, such Party continues to use its commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay, including through the use of alternate sources, workaround plans or other means. The Party whose performance is prevented, hindered, or delayed by a Force Majeure Event shall promptly notify the other Party of the occurrence of the Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event.
- G. "Ohio Mulch Facilities" shall mean the locations operated by Ohio Mulch within SWACO's District to receive Yard Waste and currently includes the following: 537 Reynoldsburg-New Albany Road, Blacklick, Ohio; 4665 Westerville Road, Columbus, Ohio; 2541 Harrisburg Pike, Grove City, Ohio; 4120 Roberts Road, Columbus, Ohio; and the Universal Road Facility. Only Ohio Mulch's Universal Road Facility is licensed by the Ohio EPA to receive and process Yard Waste.
- H. "Monthly Reports" shall mean the reports submitted by Ohio Mulch to SWACO each month that identifies the tonnages of Residential and Municipal Yard Waste generated in SWACO's District and received by Ohio Mulch. Each Monthly Report shall be delivered to SWACO by the last day of the immediately following month and shall include a certification that all Residential and Municipal Yard Waste reported was processed pursuant to the terms of this Agreement.
- I. "Residential and Municipal Yard Waste" shall mean any Yard Waste generated by a resident of SWACO's District that is collected and transported by authorized haulers, municipalities and townships, or self-hauled by, or on behalf of, the resident to an Ohio Mulch Facility.
- J. "Scale and Software System" shall mean the electronic reporting and accountability system at Ohio Mulch Facilities that accurately reports the tonnages of Residential and Municipal Yard Waste generated in SWACO's District and received by Ohio Mulch.

- K. "SWACO's District" shall mean the SWACO Solid Waste Management District and includes the Territory of Franklin County and portions of Delaware, Fairfield, Licking, Pickaway, and Union counties. Ohio Revised Code §3734.52(A) requires that if a municipal corporation is located within more than one solid waste management district, the entire municipal corporation is included in the district where the majority of its population resides.
- L. "Yard Waste" shall mean yard waste as defined by Ohio Administrative Code (OAC) 3745-500-02(Y)(1)-(7)(f): (1) Leaves. (2) Grass clippings. (3) Brush. (4) Tree trunks and stumps. (5) Prunings from trees or shrubs. (6) Any plant materials from residential trees and edible gardens. (7) Decorative plant materials that do not contain plastic, metal, polystyrene or other non-compostable material, including but not limited to any of the following: (a) Pumpkins or gourds. (b) Hay or straw bales. (c) Holiday trees. (d) Discarded or potted flowers. (e) Wreaths. (f) Grave blankets. The definition of Yard Waste shall mean remain in compliance with the requirements that are contained in the Ohio Revised Code (O.R.C.), and the Ohio Administrative Code (OAC), as each of those definitions may be modified from time to time. In addition, the definition of Yard Waste shall also include any compostable brown kraft paper bags used to collect and transport any Yard Waste materials. Yard Waste does not include any non-compostable or non-organic materials, or prohibited materials as defined in Chapter 3745-560 of the Ohio Administrative Code, or materials from industrial processing, agricultural processing, or food processing.
- M. "Universal Road Facility" shall mean the Ohio Mulch Facility and associated retail located at 1600 Universal Road.

§2 Term. The term of this Agreement shall commence on January 1, 2023, and shall terminate on December 31, 2025.

§3 Scope of Services. Ohio Mulch shall provide Residential and Municipal Yard Waste processing and composting services for any and all material generated in SWACO's District and delivered to Ohio Mulch in accordance with the terms, conditions and provisions set forth in this Agreement.

- A. Ohio Mulch shall ensure that its Universal Road Facility accepting Residential and Mulch Yard Waste from SWACO's District shall be licensed by the Ohio EPA and shall maintain good standing throughout the term of this Agreement. All Ohio Mulch Facilities shall be authorized under Ohio law to receive Residential and Mulch Yard Waste from SWACO's District throughout the term of this Agreement.
- B. Residential and Municipal Yard Waste does not include any non-compostable or non-organic materials, or prohibited materials as defined in Chapter 3745-560 of the Ohio Administrative Code, or materials from industrial processing, agricultural processing, or food processing.

- C. The Residential and Municipal Yard Waste may be collected and transported by authorized haulers, municipalities and townships, or self-hauled by or on behalf of District Residents to Ohio Mulch Facilities for processing and composting.
- D. SWACO is not obligated by this Agreement to provide a minimum amount of Residential and Municipal Yard Waste to Ohio Mulch or any of the Ohio Mulch Facilities for the performance of composting and/or processing services, nor is SWACO required by this Agreement to transport or direct any or all Residential and Municipal Yard Waste materials generated within SWACO's District to an Ohio Mulch Facility.
- E. Ohio Mulch understands and agrees that this Agreement for the provision of services is not intended to be, nor shall it be construed to be, an exclusive contract with SWACO for the provision of the type of services set forth in this contract.
- F. Ohio Mulch acknowledges and affirms that there are no restrictions on the diameter of Residential and Municipal Yard Waste material and shall not charge any residents or local government for Yard Waste generated in SWACO's District and delivered to an Ohio Mulch Facility for processing and/or composting.
- G. Ohio Mulch shall perform all services under this Agreement in accordance with professional standards of skill, care, and diligence for Ohio Mulch's profession and in accordance with pertinent provisions of the Ohio Revised Code, the Ohio Administrative Code, federal and/or local statutes, ordinances, rules, and regulations.
- H. Ohio Mulch shall be responsible for and shall dispose of any Contaminants received in conjunction with the Residential and Municipal Yard Waste generated within SWACO's District at a SWACO-designated Solid Waste disposal facility in accordance with SWACO's District Rules and Resolutions and in compliance with all federal, state and local laws and regulations. Notwithstanding, Ohio Mulch shall have the right, in its reasonable discretion, to reject any loads that contain too much Contamination. SWACO and Ohio Mulch will encourage all municipal haulers to supply, at the haulers' cost, a dumpster at each Ohio Mulch location where it is dumping Residential and Municipal Yard Waste for the Contamination removed from the materials.

§4 Hours of Operation. Ohio Mulch shall maintain the agreed hours of operation at all Ohio Mulch Facilities in SWACO's District. The agreed hours of operation are as follows:

- All Ohio Mulch Facilities closed on New Year's Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.
- From January 2nd to March 15:
 - Monday - Friday: 8 am to 4 pm,
 - Saturday: 8 am to 12 pm
 - Sunday: Closed
- From March 16th to September 1st
 - Monday - Saturday: 8 am to 6 pm
 - Sunday: 11 am to 3 pm

- From September 2nd to November 1st
Monday – Saturday: 8 am to 5 pm
Sunday: 11 am to 3 pm
- From November 2nd - Dec 31st
Monday - Saturday: 8 am to 4 pm
Sunday: Closed
- Universal Road Facility: Closed on Sundays from July 5th to March 15th
- Notwithstanding the above, hours of operation at Ohio Mulch Facilities may be permissibly limited based on Force Majeure Events.

- A. Ohio Mulch agrees not to voluntarily limit its hours of operation or close any Ohio Mulch Facility in SWACO’s District without the prior written consent of SWACO.
- B. Any voluntary and material change to the agreed hours of operation for any reason, within Ohio Mulch’s control, must be reasonably approved by SWACO in writing at least forty-eight (48) hours prior to the change being implemented.
- C. Upon twenty-four (24) hours prior notice SWACO shall have the right to inspect any Ohio Mulch Facility in SWACO’s District during business hours.

§5 Capacity. Ohio Mulch shall provide Adequate Capacity at its Ohio Mulch Facilities located in SWACO’s District to receive and process all Residential and Municipal Yard Waste material. Ohio Mulch shall not be expected to provide, or be liable for not providing, additional capacity beyond the Adequate Capacity levels at the specific Ohio Mulch Facilities as identified in Exhibit A. However, Ohio Mulch is expected to have sufficient capacity at the Universal Road Facility for all Residential and Municipal Yard Waste material produced in SWACO’s District. Furthermore, insufficient capacity shall not qualify as a justifiable reason for changing or limiting the hours of operation at any Ohio Mulch Facility in SWACO’s District pursuant to Section 4.

- A. Ohio Mulch shall be obligated at its sole and complete cost and expense to purchase, install, operate and maintain such equipment as required to provide proper processing of the Residential and Municipal Yard Waste.
- B. Ohio Mulch shall be solely responsible for transporting Residential and Municipal Yard Waste material to another location if Adequate Capacity becomes an issue at any Ohio Mulch Facility in SWACO’s District.
- C. Ohio Mulch shall be strictly prohibited from disposing of Yard Waste in a solid waste landfill facility, solid waste incinerator, construction, and demolition debris facility or any like disposal facility.

§6 Reporting and Scale System. Pursuant to Section §6.A. below, Ohio Mulch shall install and use an electronic reporting and accountability system for the commercial truck weigh scales (“Scale and Software System”) in order to accurately report to SWACO on a per ton basis for all Residential and Municipal Yard Waste material. The Scale and Software System shall include a system that integrates scale information; location of the source of Yard Waste deliveries; and the

time/date with the community information. Notwithstanding the foregoing, Ohio Mulch is not required to report the community information for individual residents who deliver their own Residential and Municipal Yard Waste to an Ohio Mulch Facility. Ohio Mulch shall submit a Monthly Report to SWACO that provides the detailed information identified in the preceding sentence and any other information requested by SWACO. The Scale and Software System and the certified commercial truck weigh scales shall be maintained in good working order and operated in accordance with both its operating manuals and pertinent Federal, State, and local laws, ordinances, rules and regulations and inspected at least annually and certified as accurate. Ohio Mulch shall provide a copy of the certificate of the inspection for the scales to SWACO within thirty (30) days of the inspection.

- A. The Parties acknowledge that Ohio Mulch will have to acquire the approved Scale and Software System required pursuant to this Agreement and agree that Ohio Mulch shall have six (6) months from the date of parties' execution of this Agreement, to have the Scale and Software System installed and functioning. Prior to the required Scale and Software System, the Parties agree that Ohio Mulch shall be permitted to use the electronic reporting and accountability system that has been in place during the Parties' most recent agreement, including but not limited to drivers or store personnel handwriting tickets from the electric scales are sufficient and shall be exempt from Section 12.A.4 until the Scale and Software System is installed and functioning.
- B. Except as set forth below, for Ohio Mulch Facilities that do not have certified commercial truck weigh scales, Ohio Mulch shall maintain all Residential and Municipal Yard Waste materials separate from any Commercial and/or Industrial Loads and shall separately weigh the haul backs of Residential and Municipal Yard Waste materials from such Ohio Mulch Facilities to the Universal Road Facility using the Scale and Software System to ensure accurate reporting. Notwithstanding anything to the contrary contained herein, once Ohio Mulch reports to SWACO an aggregate amount of tons each year meeting the Annual Contract Amount, Ohio Mulch shall no longer be required to keep Residential and Municipal Yard Waste materials separate from any Commercial and/or Industrial Loads; shall no longer be required to separately weigh the haul backs of Residential and Municipal Yard Waste materials from such Ohio Mulch Facilities; and, shall be exempt from the enforcement provisions in Section 12.A.2.-4. for the remainder of that Calendar Year.
 1. From October 15th to December 15th each year, if the Annual Contract Amount has not been satisfied, Ohio Mulch may choose, at its Westerville location only, not to keep Residential and Municipal Yard Waste materials separate from any Commercial and/or Industrial Loads and may choose not to separately weigh the haul backs of Residential and Municipal Yard Waste materials from the Westerville Ohio Mulch Facility.
 2. If Ohio Mulch chooses pursuant to Section 6.B.1. above not to keep the Residential and Municipal Yard Waste materials separate from all other materials at its Westerville Ohio Mulch Facility or if Ohio Mulch chooses not to weigh the haul back of Residential and Municipal Yard Waste materials from its Westerville Ohio Mulch Facility, SWACO shall not be liable to Ohio Mulch

for any compensation pursuant to Section 7 below for the Residential and Municipal Yard Waste materials delivered to the Westerville Ohio Mulch Facility.

- C. SWACO shall have the right to perform an audit and review scale reports and any other relevant data of Ohio Mulch relating to the Residential and Municipal Yard Waste. These materials shall be made available to SWACO within forty-eight business (48) hours following SWACO's written request.

§7 SWACO Payments. SWACO shall pay Ohio Mulch twelve and 48/100 dollars (\$12.48) per ton, not to exceed nine hundred fifty thousand dollars (\$950,000.00) per Calendar Year, for all properly reported Residential and Municipal Yard Waste material. For multi-year contracts, SWACO's funds are contingent upon the approval of the annual budget by the Board of Trustees. If SWACO's Board of Trustees fails at any time to continue funding for the payments or any other obligations due by SWACO under this Contract, SWACO will be released from its obligations on the date the funding expires. SWACO shall pay Ohio Mulch's invoice within thirty (30) days of its approval by SWACO. SWACO will pay Ohio Mulch an advance payment of two hundred fifty thousand dollars (\$250,000.00) ("Advance Payment") payable within five (5) business days of execution of this Agreement. Ohio Mulch will credit SWACO an amount equal to six and 24/100 dollars (\$6.24) per ton on each invoice until the full amount of the Advance Payment is repaid.

- A. Ohio Mulch shall not seek payment from SWACO from any Yard Waste which has not been weighed or which was generated from outside of SWACO's District. Additionally, SWACO shall not be liable for any payment to Ohio Mulch for the delivery of any Commercial and/or Industrial Loads to Ohio Mulch, regardless if it is generated in SWACO's District.
- B. The Parties acknowledge that, based on the per ton payment to Ohio Mulch by SWACO, SWACO may pay to Ohio Mulch the Annual Contract Amount prior to the end of the Calendar Year and that Ohio Mulch shall continue to accept and process Residential and Municipal Yard Waste material through the end of each Calendar Year during the term of this Agreement.

§8 Education and Outreach. Ohio Mulch agrees to contribute thirty-three cents (\$0.33) for every ton of Residential and Municipal Yard Waste material received to an education fund maintained by SWACO, which total contribution shall not exceed twenty-five thousand and 00/100 dollars (\$25,000.00) for each Calendar Year, that will be used for the purpose of educating residents in SWACO's District on the proper way to dispose of Yard Waste. The Parties agree that SWACO will deduct the \$1.00 per ton from the \$12.48 per ton payment to Ohio Mulch pursuant to Section 7. The contribution obligations under this Section 8 will not start until after the Advance Payment amount is repaid as set forth above.

- A. Ohio Mulch agrees to allow SWACO access to the Ohio Mulch Facilities for the purposes of tours, publicity, community outreach and as a part of SWACO's community education programs. Any such access pursuant to the Agreement shall be arranged in advance.

- B. Ohio Mulch grants to SWACO the limited right to use images of the Ohio Mulch Facilities and any non-proprietary equipment in SWACO videos, documents, presentations, papers, press releases, education materials or reports. SWACO shall stop using images upon a good-faith objection from Ohio Mulch.

§9 Liability Insurance. Ohio Mulch shall purchase and maintain the following liability and other insurance at the indicated limits, under the terms set forth below:

- A. General Liability Insurance, containing the following limits and terms:
 - 1. \$1,000,000.00 per occurrence
 - 2. \$2,000,000.00 aggregate
 - 3. \$1,000,000.00 Products/Completed Operations Aggregate
 - 4. Name SWACO as an additional insured
 - 5. Waiver of subrogation in favor of SWACO and all related entities or subsidiaries, employees, agents and/or representatives

- B. Automobile Liability Insurance, containing a limit of \$1,000,000.00 per occurrence

- C. Worker's Compensation and Employer's Liability Insurance, containing the following limits:
 - Statutory Limits for the State of Ohio \$500,000.00/ \$500,000.00/\$500,000.00
 - Employer's Liability Limit

- D. Each policy of insurance required to be purchased and maintained by the Successful Proposer shall be purchased from an insurance carrier rated by A.M. Best as A-, VII or better.

- E. Each policy and respective certificate of insurance shall expressly provide that should Ohio Mulch's insurance lapse, be cancelled, non-renewed or materially altered, Ohio Mulch shall provide SWACO with no less than thirty (30) days prior written notice of such cancellation, non-renewal, expiration or material alteration of the coverage contained in such policy or evidenced by such certificate of insurance.

- F. Within fifteen days of the execution of this Agreement by SWACO's Executive Director or his designee, Ohio Mulch shall without demand furnish SWACO with a certified copy of any insurance certificate and/or additional insured endorsement required to be purchased or maintained by Ohio Mulch under the terms of this Agreement. Failure of Ohio Mulch to comply with the terms and conditions of this paragraph shall constitute a material breach of this Agreement and shall be cause for termination of this contract by SWACO.

- G. Ohio Mulch shall maintain all insurance in the required amounts, without interruption, from the date of the execution of the contract until the date of the termination of the contract or the date of payment of the final invoice issued by Ohio Mulch, whichever

is later. Failure of Ohio Mulch to comply with the terms and conditions of this paragraph shall constitute a material breach of the contract and shall be cause for termination of this Contract by SWACO.

- H. Insurance policies required to be purchased and maintained by Ohio Mulch may include a reasonable loss deductible, as is customary for Ohio Mulch's industry, which shall be the sole responsibility of Ohio Mulch to pay in the event of any covered loss.
- I. SWACO and Ohio Mulch waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance obtained pursuant to the requirements set forth above or any other property insurance applicable to the performance of the services, except such rights as they have to proceeds of such insurance held by SWACO as fiduciary. Ohio Mulch agrees to obtain waivers in favor of SWACO of such claims by all of its subcontractors.
- J. Notwithstanding the foregoing, and regardless of the amount of any insurance proceeds recovered by the parties under the insurance policies set forth above, Ohio Mulch shall be liable to SWACO for the full amount of any claims, damages, losses, liens, causes of action, suits, judgments and expenses (including reasonable attorney's fees and other reasonable costs of defense) of any nature, kind or description which are in excess of such insurance proceeds.

§10 General Duty to Indemnify SWACO. Ohio Mulch shall indemnify and hold harmless SWACO, its trustees, officers, employees and representatives from and against all claims, damages, losses, liens, causes of action, suits, judgments, and expenses (including reasonable attorney's fees and other reasonable costs of defense), of any nature, kind or description, which (a) are caused by or result from the performance of the services by Ohio Mulch, anyone directly or indirectly employed by Ohio Mulch, any subcontractor of Ohio Mulch, or anyone for whose acts Ohio Mulch is legally liable, and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, but (c) only to the extent they are caused by any negligent, reckless or willful act, error or omission of Ohio Mulch, anyone directly or indirectly employed by Ohio Mulch, any subcontractor of Ohio Mulch, or anyone for whose acts Ohio Mulch is legally liable. The terms and conditions of this paragraph shall survive termination of this contract for any reason.

§11 Notices. Unless otherwise set forth in this Agreement, all notices, certificates, Monthly Reports, requests or other communications made hereunder shall be in writing and shall be deemed to be given if delivered to the appropriate individual set forth below or mailed to the following address:

If to SWACO: Solid Waste Authority of Central Ohio
Attn: Programs Administrator
4239 London Groveport Road
Grove City, Ohio 43123

With a copy to: Solid Waste Authority of Central Ohio
Attn: Director of Legal Affairs
4239 London Groveport Road
Grove City, Ohio 43123

If to Ohio Mulch: Ohio Mulch Composting, LLC
Attn: James Weber
1600 Universal Road
Columbus, Ohio 43207

With a copy to: Ohio Mulch Composting, LLC
Attn: General Counsel
1600 Universal Road
Columbus, Ohio 43207

The Parties may, by notice given hereunder, designate any further or different addresses, telephone numbers or facsimile numbers to which subsequent notices, certificates, requests or communications shall be sent.

§12 Enforcement Provision. Ohio Mulch understands that if it does not timely perform its obligations pursuant to the terms of the Agreement or violates any provision of the Agreement, the residents of SWACO's District will suffer damages which are difficult to determine and adequately specify. Ohio Mulch agrees, in addition to any other remedies available to SWACO, that SWACO may assess a fee on Ohio Mulch in the amounts specified below as administrative charges for failure of Ohio Mulch to fulfill its obligations. Ohio Mulch shall not be subject to Administrative Charges for non-performance covered under the provisions of Force Majeure. SWACO may, at its reasonable discretion, waive the Administrative Charges for isolated incidences.

- A. The following acts or omissions shall be considered non-compliance of the Agreement and SWACO may require payment by Ohio Mulch of the charges set forth for each act or omission subject to Force Majeure:
 1. Failure to accept materials during hours of operation, beginning the Commencement Date = \$100 per hour, up to \$1,000 per day subject to a 2-hour cure period upon notice from SWACO.
 2. Failure to deliver Monthly Reports as required = \$100 per month; subject to a 10-day cure period upon notice from SWACO.
 3. Failure to maintain records in accordance with recordkeeping procedures = \$100 per month; subject to a 10-day cure period upon notice from SWACO.
 4. Failure to maintain Scale and Software System in accordance with Contract = \$100 per day; subject to a 5-day cure period upon notice from SWACO.
- B. Notice from SWACO for Section 12 shall be deemed complete via (i) e-mail and text to Jim Weber at jweber@ohiomulch.com and at a mobile number to be supplied to SWACO and (ii) an email to General Counsel at Ohio Mulch at an email to be provided.

- C. The above cure periods may be extended for unforeseen events beyond the control of Ohio Mulch, if Ohio Mulch is attempting, in good faith, to cure the act or omission in the time frame listed above and SWACO agrees in its reasonable discretion.
- D. Upon receipt of invoice, in compliance with Section 11, Ohio Mulch shall have thirty (30) days to pay any of the above fees that are not disputed. Failure to pay fees incurred shall be considered as a breach of contract as described below in Section 13.
- E. Right to Contest. Ohio Mulch shall each have the right to contest, in good faith, any notice of SWACO, related to certain acts or omissions set forth herein.

§13 Breach and Termination. Any failure of a party to substantially comply with the terms and conditions of this Agreement shall be considered a breach of contract. Upon breach of contract, the non-breaching party shall provide written notice to the other party of the contractual provisions which they believe have been breached (“Notice of Default”). The Notice of Default shall be sent in compliance with Section 11. Upon receipt of the Notice of Default, the breaching party shall have thirty (30) days to make reasonable efforts to cure the events of default contained in the notice. Upon any failure by the breaching party to take such reasonable efforts to cure any or all events of default, the non-breaching party shall have the right to terminate this Agreement for cause. The Notice of Termination shall be served on the other party in compliance with Section 11.

- A. In the event of a termination of this Agreement prior to its intended completion date of December 31, 2025, Ohio Mulch shall only be compensated for the Residential and Municipal Yard Waste received as of the date of the Notice of Termination of this Agreement.

§14 Records Retention. Ohio Mulch’s Monthly Reports, invoices, weight tickets and accounting records shall be retained by Ohio Mulch for at least a period of two (2) years after the termination of this Agreement and shall be made available for inspection by SWACO upon reasonable notice.

§15 Entire Contract. This Agreement and any attached exhibit(s) represent the entire and integrated contract between SWACO and Ohio Mulch and supersede all prior negotiations, representations, agreements or contracts, either written or oral, between the parties hereto

§16 Effect of Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any terms, conditions, provisions or sections hereof.

§17 No Personal Liability of SWACO Officials. Neither SWACO’s Board of Trustees, either individually or collectively, nor any SWACO official executing this Agreement, or any modification hereto shall be subject to any personal liability by reason of such execution.

§18 Assignment by Ohio Mulch. Ohio Mulch shall not assign or transfer any right, title, or interest in this Agreement without the prior written consent of SWACO, which consent may be withheld by SWACO for any or no reason.

§19 Construction of Contract Terms. If any paragraph, term, condition or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other paragraph, term, condition or provision of this Agreement, each of which shall be construed and enforced to the fullest extent of the law as if such invalid or unenforceable paragraph, term, condition or provision were not contained herein.

§20 Negotiation of Contract Terms, Conditions and Provisions. The Parties acknowledge and recognize that each of them participated materially in the negotiation and drafting of this Agreement and had access to legal counsel during its negotiation and drafting.

§21 Applicable Law; Venue. The laws of the State of Ohio, without regard to its own “choice of law” provisions, shall govern to the exclusion of the laws of any other jurisdiction in the interpretation and application of the terms, conditions, and provisions of this Agreement. Any action or proceeding pertaining to this Contract shall be heard in a court of law having appropriate jurisdiction located in Franklin County, Ohio.

§22 Ohio Mulch is an Independent Contractor. Nothing contained in this Agreement is intended to be, or shall be, construed to create or establish the relationship of a partnership or joint venture or other business organization between the parties hereto nor to create an agency, representative or employment relationship between Ohio Mulch or its employees and SWACO. Neither Ohio Mulch nor its employees shall be considered an employee of SWACO, nor shall they acquire or be entitled to any compensation, rights, benefits and/or participation of any kind whatsoever offered by SWACO including, without limitation, participation in the Ohio Public Employees Retirement System, worker’s compensation coverage and/or benefits, medical and hospital care, sick and vacation leave, unemployment compensation, disability, and severance pay.

§23 Compliance with Law. By executing this Contract, Ohio Mulch acknowledges that it is in compliance with all federal, state, municipal and/or other local laws, ordinances, resolutions, rules and regulations that govern this Agreement and its performance including, without limitation, Ohio Revised Code §3517.13 (I) and (J).

§24 Non-Discrimination. Ohio Mulch agrees that during the performance of this Agreement, Ohio Mulch and any subcontractor shall not discriminate against any employee or qualified applicant for employment who is both available and qualified for work because of age, race, color, religion, sex, disability, creed, or national origin. Ohio Mulch and any subcontractor shall not discriminate based upon age, race, color, religion, sex, disability, creed, or national origin in any undertaking related to employment including (but not limited to) such actions as hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

§25 No Third-Party Interest. No person or corporation other than Ohio Mulch and SWACO have any interest hereunder and no claim shall be made or be valid, nor shall any term, condition, provision or covenant herein be construed, so as to give any person or entity other than the Parties and their successors and assigns any legal or equitable right or obligation, remedy or claim under or in respect to this Agreement.

§26 SWACO's Community Technical Assistance Program. The Parties understand that as part of its Community Technical Assistance program identified in SWACO's District Plan, SWACO may assist political subdivisions in SWACO's District with the preparation of proposals or invitations to bid for Yard Waste collection and composting services, such as those provide by Ohio Mulch. Any such political subdivision may select any vendor utilizing its own selection criteria.

§27 Contract Modification. This Agreement may be modified by a writing signed by Ohio Mulch and, pursuant to SWACO's procurement policy, SWACO's Executive Director.

§28 No Waiver. Either party's failure to enforce any provision or term of this Agreement shall not be construed as a future or continuing waiver of such provision or term of this contract.


IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates set forth below.

Solid Waste Authority of Central Ohio

By: 
Joe Lombardi, Executive Director

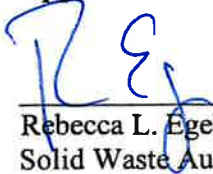
Date: 3-21-23

Ohio Mulch Composting, LLC

By: 
James A. Weber II (Mar 16, 2023 11:57 EDT)
James Weber, Owner

Date: Mar 16, 2023

Approved as to Form:


Rebecca L. Egelhoff, Esq., Director of Legal Affairs
Solid Waste Authority of Central Ohio

Date: 3/21/23

Exhibit A

Weekly Tonnages					
Monday		Westerville Rd	Roberts Rd	Unverisal Rd	Total Per Day
	Oct	160	105	165	430
	Nov	200	180	225	605
Tuesday		Westerville Rd	Roberts Rd	Unverisal Rd	
	Oct	45	0	266	311
	Nov	50	0	296	346
Wednesday		Westerville Rd	Roberts Rd	Unverisal Rd	
	Oct	110	108	0	218
	Nov	150	200	0	350
Thursday		Westerville Rd	Roberts Rd	Unverisal Rd	
	Oct	130	125	0	255
	Nov	140	150	0	290
Friday		Westerville Rd	Roberts Rd	Unverisal Rd	
	Oct	230	0	0	230
	Nov	340	0	0	340
Total Per Site		Westerville Rd	Roberts Rd	Unverisal Rd	
	Oct	675	338	431	
	Nov	880	530	521	

Daily Service Areas

Monday	Tuesday	Wednesday	Thursday	Friday
Columbus	Columbus	Columbus	Columbus	Columbus
Bexley / Mifflin	Powell		New Albany	Blendon
Dublin / Wash				Perry Township
Westerville				

DAY	ROUTE	SERVICE AREA	DUMP SITE	DAILY SUMMER AVG
MONDAY	Y120	GROVEPORT / RIVERLEA	UNIVERSAL	17.00
MONDAY	Y127	UPPER ARRLINGTON	ROBERTS	15.00
MONDAY	Y129	UPPER ARRLINGTON	ROBERTS	15.00
MONDAY	Y131	GROVE CITY	GROVE CITY	15.00
MONDAY	Y172	GAHANNA	BLACKLICK	25.00
MONDAY	Y173	GAHANNA	BLACKLICK	25.00
TUESDAY	Y215	HILLIARD	ROBERTS	20.00
TUESDAY	Y220	HILLIARD	ROBERTS	20.00
TUESDAY	Y223	GROVE CITY	GROVE CITY	15.00
TUESDAY	Y227	UPPER ARRLINGTON	ROBERTS	15.00
TUESDAY	Y229	UPPER ARRLINGTON	ROBERTS	15.00
TUESDAY	Y232	HILLIARD	ROBERTS	20.00
TUESDAY	Y238	HILLIARD	ROBERTS	20.00
TUESDAY	Y272	GAHANNA	BLACKLICK	25.00
TUESDAY	Y273	GAHANNA	BLACKLICK	25.00
WEDNESDAY	Y318	WHITEHALL	UNIVERSAL	10.00
WEDNESDAY	Y320	WHITEHALL	UNIVERSAL	10.00
WEDNESDAY	Y327	UPPER ARRLINGTON	ROBERTS	15.00
WEDNESDAY	Y329	UPPER ARRLINGTON	ROBERTS	15.00
WEDNESDAY	Y332	GROVE CITY	GROVE CITY	15.00
WEDNESDAY	Y341	NORWICH	ROBERTS	20.00
WEDNESDAY	Y372	REYNOLDSBURG	BLACKLICK	17.00
WEDNESDAY	Y373	REYNOLDSBURG	BLACKLICK	17.00
THURSDAY	Y413	GROVE CITY	GROVE CITY	25.00
THURSDAY	Y420	MADISON	UNIVERSAL	10.00
THURSDAY	Y421	MADISON	UNIVERSAL	10.00
THURSDAY	Y427	UPPER ARRLINGTON	ROBERTS	15.00
THURSDAY	Y429	UPPER ARRLINGTON	ROBERTS	15.00
THURSDAY	Y437	PLEASANT	GROVE CITY	6.00
THURSDAY	Y472	REYNOLDSBURG	BLACKLICK	17.00
THURSDAY	Y473	REYNOLDSBURG	BLACKLICK	17.00
FRIDAY	Y520	GROVE CITY/HAMILTON	GROVE CITY	8.00
FRIDAY	Y537	WORTHINGTON	WESTERVILLE	20.00
FRIDAY	Y545	WORTHINGTON	WESTERVILLE	20.00

FIRST MODIFICATION TO THE AGREEMENT FOR IN-DISTRICT RESIDENTIAL AND MUNICIPAL YARD WASTE PROCESSING AND COMPOSTING SERVICES

This First Modification to the Agreement for In-District Residential and Municipal Yard Waste Processing and Composting Services (“Modification”) is entered into on __ day of June, 2023, by and between the Solid Waste Authority of Central Ohio (“SWACO”) and Ohio Mulch Composting, LLC (“Ohio Mulch”) (collectively the “Parties”).

WHEREAS, the original Agreement for In-District Residential and Municipal Yard Waste Processing and Composting Services was entered into by the Parties with an effective date of January 1, 2023 (“Agreement”); and

WHEREAS, subsequent to the execution of the Agreement, the Parties realized there were a few clerical errors and interpretations that the Parties wish to correct and memorialize in writing for the Agreement.

NOW THEREFORE, and in consideration of the mutual promises and agreements contained herein the Parties agree as follows:

1. Nothing contained in this Modification shall be deemed to supersede, modify, alter, amend, change, or replace any of the terms, conditions, or provisions contained in the Agreement, unless specifically set forth herein.

2. The last sentence of Section 7 of the Agreement is deleted in its entirety and replaced with the following:

Ohio Mulch will credit SWACO an amount equal to twelve and 48/100 dollars (\$12.48) per ton on each invoice until the full amount of the Advance Payment is repaid.

3. The second to last sentence of Section 8 of the Agreement is deleted in its entirety and replaced with the following:

The Parties agree that SWACO will deduct the \$0.33 per ton from the \$12.48 per ton payment to Ohio Mulch pursuant to Section 7.

4. This Modification shall be effective on January 1, 2023.

IN WITNESS WHEREOF, the parties hereto have executed this Modification on the dates set forth below.

SWACO:
Solid Waste Authority of Central Ohio

By: Joseph A. Lombardi
Digitally signed by Joseph A. Lombardi
Date: 2023.06.27 08:42:35 -04'00'
Joseph Lombardi, Executive Director

Date: _____

Ohio Mulch:
Ohio Mulch Composting, LLC

By: James A. Weber II
James Weber, Owner

Date: 6/26/23

Approved as to Form:

Rebecca Egelhoff
Digitally signed by Rebecca Egelhoff
Date: 2023.06.27 08:22:41 -04'00'

Rebecca L. Egelhoff, Director of Legal Affairs

Date: _____