

FOOD WASTE COLLECTION AGREEMENT

between

UNC Chapel Hill

and

Judy D. Brooks Contractor Inc. of Goldston, North Carolina

The University of North Carolina at Chapel Hill, (hereinafter "UNC Chapel Hill") desires to hire Judy D. Brooks Contractor Inc. of Goldston, NC to provide collection of separated food. ("Food Waste Collection Services") as defined herein; and

WHEREAS, Judy D. Brooks. Contractor INC. desires to provide Food Waste Collection Services as defined herein;

NOW, THEREFORE, the UNC Chapel Hill of Chapel Hill and Judy D. Brooks Contractor Inc. do hereby agree as follows:

SECTION 1

Definitions

For purposes of this Agreement, the following terms shall apply:

Contractor: Judy D. Brooks Contractor Inc. Or DBA/ Brooks Contractor

Food Waste: All separated food waste and any other materials that may be agreed upon collected at any businesses that may be mutually agreed upon by Brooks Contractor and the UNC Chapel Hill as part of this food waste collection agreement.

Food Waste Collection Services: Those services to be performed by CONTRACTOR follows: (a) the scheduled collection of food waste from locations specifically designated by the parties; (b) processing of food waste which includes the composting, blending, curing and proper preparation of food waste for use as compost; (c) keeping accurate and thorough records of the volume or weight of materials collected weekly, and the number and type of customer complaints; and (d) ensuring that properly separated food waste will not be landfilled.

Collections may take place anywhere agreed upon by the parties to this contract with the cooperation of the dining units involved;

Food Waste Collection Containers: Outdoor containers provided by the contractor, UNC Chapel Hill, or dining units to meet any applicable health standards to be used by schools or businesses to set out their food waste and provided pursuant to this Agreement.

Generator: any establishment producing acceptable source separated compostable material desired by the Contractor

Processing Center: Location where separated food waste is composted and otherwise processed for use as compost.

Dining Unit: Any campus location providing a volume of separated, uncontaminated food waste for cost-effective collection as determined by the parties to this agreement;

Separated: Only food waste or other materials agreed upon by the parties and placed in Container(s) or stacked in another approved location;

UNC Chapel Hill: Unless otherwise stated, UNC Chapel Hill shall mean UNC Chapel Hill of Chapel Hill.

Preparation: Proper and sanitary preparation of all food waste and other materials as compost.

SECTION 2

Term of Agreement

The term of the agreement will be for the period from August 1, 2000 to July 30, 2001, assuming that the performance of the contractor is satisfactory. The level of performance expected is defined below. This service may be extended if the Chapel Hill UNC Chapel Hill approves funding for each annual term of the contract. Certain terms of this contract may be subject to change annually, pending notice to the contractor and successful negotiation between the contractor and UNC Chapel Hill.

Actual costs for future years are to be negotiated annually.

SECTION 3

Scope of Services

Contractor shall perform Food Waste Collection Services as follows:

Contractor shall collect and remove upon an agreed upon schedule between the UNC Chapel Hill, Contractor and dining unit not less than three times per week (excluding holidays), all separated food wastes and other specified materials mutually agreed upon by Contractor and the UNC Chapel Hill. Said materials must be properly separated and placed in food waste collection containers or other designated separation method, at the designated business or school site or from some other specifically defined location. The food waste collection locations at which these services are performed may include dining units listed in attachment A. Additional locations may be added with approval by the UNC Chapel Hill's Office of Waste Reduction and Recycling and the Contractor.

SECTION 4

UNC Chapel Hills'

The UNC Chapel Hill Representatives, for purposes of this Agreement, shall be BJ Tipton and the OWRR Operations Manager (vacant), UNC Chapel Hill of Chapel Hill Solid Waste Management Department. The contract shall be between Judy D. Brooks Contractor Inc. and UNC Chapel Hill, but the involvement of dining units may be necessary to ensure that methods, procedures and containers for collection of food waste or other compostables meets the standards and requirements of those jurisdictions.

SECTION 5

Time of Collection

Contractor shall collect the food waste, segregated and placed in the containers for collection, at least three times each week (except when closed for holidays). Collection shall take place in such a manner as not to disrupt normal dining unit activity, general safety, pedestrian or vehicular traffic.

SECTION 6

Collection Containers

The Contractor shall provide the food waste collection containers. The containers shall be of a type approved by the UNC Chapel Hill and Contractor and meeting all applicable health codes and standards.

The dining unit shall have responsibility for the replacement of the food waste collection containers if they are lost, stolen, damaged or destroyed except by action of the contractor. The Contractor shall supply additional containers as needed for additional volume. The Contractor will be responsible for maintenance and replacement parts or repairs of containers.

SECTION 7

Transportation of Collected Food Wastes

Contractor shall transport the collected food waste materials to his processing site. Contractor shall take title and have access to the food waste materials upon placement in the bin by participating schools or businesses in accordance with Section 3 and shall be responsible for processing separated food wastes and shall retain all of the benefits from use of this material. Separated food wastes shall be the property of Contractor.

SECTION 8

Labor and Costs

Contractor shall, at his sole cost and expense, except as otherwise provided herein, furnish all labor and equipment required to perform collection of separated food waste materials pursuant to this Agreement.

SECTION 9

Missed Pick-Up

In case of a missed pick-up reported by the generator, Contractor shall collect the separated food waste from such a business within 24 hours of notification if the food waste and other compostables were accessible at collection time and properly prepared. All calls relating to missed pick-ups shall be logged by Contractor

and reported with the monthly invoice. The log book shall be available for inspection by the UNC Chapel Hill.

SECTION 10

Refusal to Pick Up

Contractor may not pick up if a dining unit does not properly separate food waste materials or if the containers are inaccessible. At the time of refusal to make the pick-up, Contractor will issue, at his expense, a written notice to the generator, which contains instructions for the proper separation of food waste materials. UNC Chapel Hill must receive notification of this refusal within 24 hours of issuance to the generator.

If a generator receives two such notices within a period of 30 days, Contractor, after obtaining consent from UNC Chapel Hill, may refuse all further pick-ups of food waste materials from that generator upon notice to the generator and UNC Chapel Hill. Any replacement location shall be agreed upon jointly by Contractor and UNC Chapel Hill.

SECTION 11

Processing Center

Contractor may maintain a processing center for composting separated food wastes at his facility located in Chatham County or at another properly permitted facility of his choice. All food waste materials collected from schools or businesses may be processed at the Processing Center. Title to food waste materials brought to the Processing Center shall be with Contractor and Contractor shall have the responsibility for the proper processing and use of such food waste materials. Storage of food waste materials at the Processing Center shall be limited to that which can be properly contained pursuant to permits issued by the State of North Carolina or other government which has jurisdiction over other processing location. Contractor shall notify UNC Chapel Hill Representatives, in writing, not less than 30 days prior to any relocation of the food waste processing and composting center.

SECTION 12

Public Awareness and Business Education and Training Program

UNC Chapel Hill and generators with assistance from Contractor shall develop and implement a Public Awareness Program. UNC Chapel Hill, with assistance from the generators and contractor may develop signs for containers that UNC Chapel Hill may place on the tops of food waste bins and with other promotional material for use by the program to ensure proper separation.

SECTION 13

Compensation for Services

UNC Chapel Hill agrees to make monthly payments to Contractor within 30 days of receipt of each accurate invoice, including weights or volumes and collection records. The weights are to be based on weighing of the containers at each collection at each location. If weight is to be estimated, weight samples shall be based on three weighings at each collection location with three containers full of food waste and other compostable materials and or total truck weight, minus tare weight after pick-up route is complete on state approved truck scales.

Future weights are to be based on the volumes displaced during the three weighings. For example, if a full 20-gallon container weighs 180 pounds, then the weight per gallon is 9 lbs./gallon. That density would be used for future estimates.

The agreement of payment at this rate is from August 1, 2000, through July 30, 2001 in the amount of \$75.00 per ton of food waste collected, not including wash water added by the contractor. Monthly fee is not to exceed \$5,000 per month, even if weight exceeds 66 tons per month.

The UNC Chapel Hill, Contractor or dining unit shall provide containers at all sites for collection of separated food wastes and other compostable. Provision may be made for collection of other material that can be processed as compost feedstock. These collected materials may be combined with other separated, compostable materials by the contractor to make marketable compost if permitted. If contractor supplies containers a \$2.00 per container per month rental fee will be charged to the UNC Chapel Hill.

SECTION 14

Protection of Separated Food Wastes

UNC Chapel Hill agrees, with cooperation of the generators involved, to take such steps as reasonably may be necessary to protect Contractor's ownership of all food waste materials placed at the designated area for collection by Contractor under the terms of this Agreement. Contractor may label the containers to indicate that the containers are his property once set out for collection.

SECTION 15

Permits and Licenses

Contractor, at his sole cost and expense, shall maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required to perform the work and services described herein, including but not limited to the collection of food waste materials and operation of the Processing Center for those materials.

SECTION 16

Independent Contractor

Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of UNC Chapel Hill. Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder and all persons performing the same and nothing herein shall be constructed as creating a partnership or joint venture between UNC Chapel Hill and Contractor. No person performing any of the work or services described

hereunder shall be considered an officer, agent, servant or employee of UNC Chapel Hill, and no such person shall be entitled to any benefits available or granted to employees of UNC Chapel Hill.

SECTION 17

Non-Assignment

Neither Contractor nor UNC Chapel Hill shall assign, transfer, convey, or otherwise hypothecate this Agreement or their rights, duties or obligations hereunder, or any part thereof without the prior written consent of the other, such consent not to be unreasonably withheld.

SECTION 18

Compliance with Laws and Regulations

Contractor agrees that, in the operation of the pick-up services and Processing Center and the performance of work and services under this Agreement, he will qualify under and comply with any and all federal, state and local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to Contractor, his employees, agents or subcontractors, if any, with respect to the work and services described herein.

SECTION 19

Insurance

Contractor shall obtain and maintain throughout the term of this Agreement, at Contractor's sole cost and expense, not less than the insurance coverage set forth below:

- (a) Workers' Compensation
 - Coverage A - Statutory
 - Coverage B - \$500,000

 - (b) Comprehensive Automobile Liability (for collection vehicles only)
 - Bodily Injury - \$1,000,000 each person
 - \$1,000,000 each accident

 - Property Damage - \$1,000,000 each accident
- to include coverage for all owned, non-owned, leased and hired automobiles.
- (c) Bodily Injury - \$1,000,000 each occurrence

	-	\$1,000,000 aggregate
Property Damage	-	\$1,000,000 each occurrence
	-	\$1,000,000 aggregate

SECTION 20

Indemnity

Contractor agrees to defend, indemnify, and hold harmless UNC Chapel Hill from all loss, liability, claims or expense (including reasonable attorneys' fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or willful misconduct of Contractor except to the extent same are caused by the negligence or misconduct by UNC Chapel Hill. UNC Chapel Hill agrees, to the extent allowed by law, to defend, indemnify, and hold harmless Contractor from all loss, liability, claims or expense (including death or property damage, to any person or persons caused in whole or in part by the negligence or willful misconduct of UNC Chapel Hill except to the extent same are caused by the negligence or misconduct by Contractor.

Special Requirements

UNC Chapel Hill is to be named as additional insured on the automobile and comprehensive general liability policies.

Current valid insurance policies meeting the requirements herein identified shall be maintained for the duration of the named project. There also shall be a 30 day notification to the UNC Chapel Hill in event of cancellation of coverage or modification of any stipulated insurance coverage. Actual insurance policies or copies certified by an individual authorized by the insurance company meeting the required insurance provisions shall be forwarded to the UNC Chapel Hill.

It shall be the responsibility of the contractor to insure that all subcontractors comply with the same insurance requirements as the general contractor. If the contractor does not meet the insurance requirements, alternate insurance coverage satisfactory to the UNC Chapel Hill may be considered.

SECTION 21

Termination

- (a) In the event Contractor materially defaults in the performance of any of the material covenants or agreements to be kept, done or performed by it under the terms of this Agreement, UNC Chapel Hill shall notify Contractor in writing of the nature of such default. Within 15 days following such notice:
 - 1. Contractor shall correct the default; or
 - 2. In the event of a default not capable of being corrected within 15 days, Contractor shall commence correcting the default within 15 days of UNC Chapel Hill's notification thereof, and thereafter correct the default with due diligence.
- (b) If Contractor fails to correct the default as provided above, the UNC Chapel Hill, without further notice, shall have all of the following rights and remedies, which the UNC Chapel Hill may exercise:

- Summaries of the volume or estimate of weight of all separated food waste materials collected in this program;
 - Participation rates in terms of monthly weight or volume counts by locations; and
 - Description of program progress, including any collection complaints or other problems encountered, and how they were resolved.
- (e) Contractor shall provide a Contract Term Summary Report to be due within 30 days of the end of the fiscal year June 30, 2001. At a minimum the report shall include:
- A collated summary of the weights or volume estimates,
 - A discussion of highlights and problems and measures taken to resolve problems and increase efficiency and participation; and
 - Summary of complaint calls by number and type.

SECTION 24

Force Majeure

Contractor's performance hereunder may be suspended and his obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond the reasonable control of Contractor, unless such cause or causes are the sole result of action or nonaction by Contractor. Such causes shall include, but not be limited to, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power or raw materials; judicial, administrative or governmental laws, regulations, requirements, rules, orders or actions; injunctions or restraining orders; the failure of any governmental body to issue or grant, or the suspension or revocation or modification of any license, permit or other authorization necessary for the construction and/or operation envisioned by this Agreement; national defense requirements; labor strikes, lockout or injunction.

SECTION 25

Waiver

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

SECTION 26

Law to Govern

This Agreement is entered into and is to be performed in the State of North Carolina. UNC Chapel Hill and Contractor agree that the law of the State of North Carolina shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

SECTION 27

Titles of Sections

Section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

SECTION 28

Amendment

This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

SECTION 29

Cooperation Among the Parties

Whenever consent, action or inaction is required, such consent, action or inaction will not be withheld unreasonably by either party.

SECTION 30

Severability

The invalidity of one or more of the phrases, sentences, clauses or Sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and implemented.

SECTION 31

Successors and Assigns

This Agreement shall be binding upon the parties hereto, their successors and assigns.

SECTION 32

Entirety

This Agreement and any attachments attached hereto contain the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands as of this _____ day of _____, 2000.

APPROVED AS TO FORM:

UNC Chapel Hill

Solid Waste Management Director

Dean Brooks.
Goldston, NC

By:_____

Title:_____

Address:_____

Attachment A

Locations from which food waste materials may be collected:

1. Lenoir Dining Hall