

AN ORDINANCE      **2013 - 01 - 31 - 0078**

**AMENDING THE EXISTING ORGANIC COMPOSTING CONTRACT WITH NEW EARTH, INC., TO INCREASE THE MAXIMUM CONTRACT VALUE OF \$195,000.00 TO A MAXIMUM VALUE OF \$243,750.00, AND TO EXTEND THE TERM OF THE CONTRACT TO DECEMBER 31, 2013.**

\*      \*      \*      \*      \*

**WHEREAS**, consistent with the objective of the City to create a more sustainable society, the Solid Waste Management Department (SWMD) developed a community-wide Ten Year Recycling and Resource Recovery Plan for Residential and Commercial Services, "Creating a Pathway to Zero Waste", which was adopted by the San Antonio City Council on June 24, 2010 through Resolution 2010-06-24-0038R; and

**WHEREAS**, the strategic goals of the Ten Year Recycling and Resource Recovery Plan included a new organics recycling program which the Council approved in November 2011 as a pilot Organics Recycling Program for approximately 30,000 households, and a contract with New Earth, Inc., for organics processing, under Ordinance 2011-08-18-0688; and

**WHEREAS**, in August 2012 Council requested a comprehensive review of the Ten Year Recycling and Resource Recovery Plan, with a focus on the proposed expansion of the Organics Recycling Program in 2013; and

**WHEREAS**, as a result of this review, the City will establish a subscription-based Organics Recycling Program with new subscribers; the SWMD will need to update the existing composting processing contract as the current contract with New Earth, Inc. expires on September 30, 2013, and has a maximum value of \$195,000.00; in order to provide sufficient coverage, this contract will be extended through December 31, 2013 and the maximum value will be increased by \$48,750.00 to \$243,750.00; this will allow for the solicitation for a long-term organics processing contract in order to continue the program for future years; and

**WHEREAS**, this Ordinance approves the amendment to the New Earth, Inc., organics composting processing contract by extending the term and increasing the contract value; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The current contract for organics composting and processing with New Earth, Inc., is amended to extend the term of the contract to December 31, 2013, and to increase the contract value by an additional amount not to exceed \$48,750.00, for a new total contract value not to exceed \$243,750.00. A copy of the contract Amendment is attached as **Exhibit "A"** and made a part hereof and incorporated herein for all purposes.

**SECTION 2.** Funding in the amount of \$48,750.00 for this ordinance is available in Fund 55001000, Cost Center 5501010001 and General Ledger 5201041, as part of the Fiscal Year 2013 Budget.

**SECTION 3.** Payment not to exceed the budgeted amount is authorized to New Earth, Inc., and should be encumbered with a purchase order.

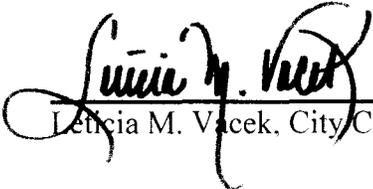
**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 5.** This Ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes or, if passed by fewer than eight (8) affirmative votes, shall be effective ten (10) days after passage.

**PASSED and APPROVED** this 31st day of January, 2013.

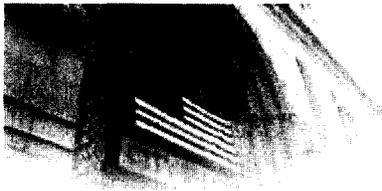
  
M A Y O R  
Julián Castro

**ATTEST:**

  
Leticia M. Vacek, City Clerk

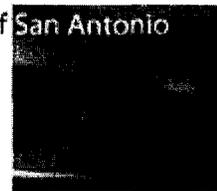
**APPROVED AS TO FORM:**

  
for Michael D. Bernard, City Attorney



Request for  
**COUNCIL  
ACTION**

City of San Antonio



## Agenda Voting Results - 18C

<b>Name:</b>	18A, 18B, 18C, 18D						
<b>Date:</b>	01/31/2013						
<b>Time:</b>	10:44:37 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance amending the existing organic composting contract with New Earth, Inc., to extend the term of the contract from September 30, 2013 to December 31, 2013 and to increase the maximum contract value of \$195,000.00 to a maximum value of \$243,750.00.						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				x
Carlton Soules	District 10		x			x	

**AMENDMENT TWO  
TO CONTRACT BETWEEN THE CITY OF SAN ANTONIO  
AND NEW EARTH, INC.  
FOR ORGANIC COMPOSTING**

The City of San Antonio, a Texas Municipal Corporation ("CITY") presently contracts with New Earth, Inc. ("New Earth"), for services provided under the "Contract for Organic Composting" ("CONTRACT"), as approved by City Council August 18, 2011, through Ordinance No. 2011-08-18-0688. The term of the CONTRACT was for one year, from the date of execution by CITY to October 9, 2012 and a contract value of not to exceed \$195,000.00. Amendment One, approved by Ordinance 2012-09-20-0754, extended the term of the Contract for an additional year, to September 30, 2013.

The City desires to maintain the Organics Recycling Program for the same area and therefore the Parties agree to extend the term of the CONTRACT to December 31, 2013 and increase the value of the contract by an additional \$48,750.00, for a new contract value not to exceed \$243,750.00, under the same terms and conditions.

This Amendment Two of the CONTRACT ("AMENDMENT TWO") extends the term of the CONTRACT through the end of 2013 and increases the value of the contract. This Amendment Two is entered into by and between CITY, acting by and through its designated representative, and New Earth. The undersigned hereby mutually agree to amend said contract as follows:

1. Page two, Article II. Term, as amended, is amended by deleting the ~~strike through~~ and adding the underlined language to the end of paragraph 2.1:

"The termination date of this CONTRACT is extended ~~by a period of one year~~ for a new termination date of ~~October 9, 2013~~, December 31, 2013, as authorized by the San Antonio City Council under Ordinance No. ~~2012-09-20-0754~~ 2013-01-31-\_\_\_\_\_, passed and approved on ~~September 20, 2012~~ January 31, 2013."

2. Page six, Article IV. Compensation to Contractor, is amended by adding the underlined language to the end of paragraph 4.1:

"4.1 In consideration of Contractor's performance in a reasonably satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Contractor \$19.50 per ton of received materials less any credits as provided in Section 3.7.1., provided that the total amount of compensation shall not exceed \$243,750.00.

3. This AMENDMENT TWO to the CONTRACT shall not prejudice any present or future rights, remedies, benefits, or powers belonging to or accruing to CITY under the terms of the CONTRACT herein amended.

3. Except as provided otherwise herein, the CONTRACT shall remain unaffected, unchanged, and unimpaired by reason of the foregoing AMENDMENT TWO.

Exhibit "A"

AMENDMENT TWO AGREED TO this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF SAN ANTONIO, A TEXAS  
MUNICIPAL CORPORATION

NEW EARTH, INC.

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

APPROVED AS TO FORM  
Michael D. Bernard  
City Attorney

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