

LICENSE AGREEMENT
(401 Panabaker Road)
Portion of Biosolids Drying
Area
(APN 0525711)

THIS LICENSE AGREEMENT (“Agreement”) is made and entered into as of June 13, 2023 (“**Effective Date**”) by and between **THE CITY OF WATSONVILLE**, a municipal corporation (“**City**”) and **GIVELOVE**, a California non-profit corporation (“**Licensee**”).

RECITALS

A. City owns that certain property located at 401 Panabaker Road, Watsonville, California, commonly known as the Wastewater Treatment Facility (“**Premises**”). City would like to allow Licensee to use, pursuant to the terms and conditions stated herein, an approximately 1,000 square foot paved area (the “**Site**”) located on the Premises. The Premises and Site are described more particularly in Exhibit A, attached hereto and incorporated herein by reference.

B. City is willing to enter into this agreement with the Licensee to perform composting activities on Premises for the initial term of ten months and authorizes the City Manager to administratively grant up to two (2) twelve-month extensions, on the terms and conditions set forth herein.

C. City would benefit from entering into this Agreement by receiving a technical report of findings from Licensee at the end of the initial ten month term. This report will inform a unique disaster preparedness, response, and recovery plan for the City.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein set forth, and in reliance on the above Recitals, City and Licensee hereby agree as follows:

1. Recitals. The above Recitals are true and correct and incorporated herein to the terms of the Agreement.

2. License.

a. Licensed Use. Subject to the terms and conditions of this Agreement, City grants to Licensee a non-exclusive license for ingress and egress to, and to use the Premises solely for composting activities such uses being hereafter referred to as the "Licensed Use," and for no other use. Licensee shall have limited access to the Premises during the hours of 7:00 a.m. to 5:00 p.m. (“**Approved Hours**”). Licensee acknowledges that neither City nor any agent of City has made any representation or warranty with respect to the suitability of the Site for the Licensed Use. Licensee shall use the Site in its "as is" condition; City shall have no obligation to improve the Site

for the Licensed Use.

b. Entry to Site Limited to Licensee. Entry to the Site is limited to Licensee, its employees, volunteers, contractors or subcontractors, and only for the Licensed Use. All other guests and invitees of Licensee require City's written permission before entry to the Site.

c. Preservation of Site. Licensee shall take all reasonable measures to prevent materials, waste, or debris from its Licensed Use, including any hazardous materials. At all times during the Term of this Agreement, Licensee shall maintain the Site in a neat and clean condition, to the satisfaction of City. In the event the Site is not maintained to the City's satisfaction, upon notice from City, Licensee shall undertake maintenance activities to the satisfaction of City.

d. No Use of City Facilities. Licensee shall not have access to the facilities located on the Premises for its Licensed Use other than on the Site. Nor shall Licensee, its employees, volunteers, contractors, or subcontractors have use of any City tools, equipment, or other materials located in or on the Premises for the Licensed Use.

e. Prohibited Use. Licensee shall not do or permit anything to be done in or about the Site nor bring or keep anything therein which will in any way increase the existing rate of or affect or cause a cancellation of any fire or other insurance covering the Premises or the Site or any of its contents. Licensee shall not store upon the Site, or permit, or suffer the storage upon the Site of, any perishable goods, flammable materials, explosives or other dangerous materials or any hazardous materials (as defined from time to time by the appropriate governmental agencies). Licensee agrees that it will use the Site in such manner as not to interfere with the daily operation of the Premises. Licensee shall neither use nor allow the Site or the Premises to be used for any unlawful or objectionable purpose, nor cause, maintain or permit any nuisance or waste in, on or about any portion of the Premises.

f. Compliance with Law. Licensee shall not use or allow anything to be done in or about the Site or the Premises which will in any way conflict with any law, ordinance or governmental regulation or requirement of any board of fire underwriters or any duly constituted public authority now in force or hereafter enacted or promulgated affecting the use of the Site, and shall promptly comply with all such laws or requirements at its sole cost and expense.

3. Term. Subject to the terms and conditions of this Agreement, the license granted in Section 1 shall commence on July 1, 2023 ("**Commencement Date**") and shall continue until and expire on May 1, 2024 ("**Termination Date**") unless administratively extended by the City Manager for up to two (2), twelve-month extensions.

4. Consideration. In consideration of the Licensed Use, the Licensee shall pay to City \$1.00 (One Dollar) for the Term of the Agreement, due on the Commencement Date.

5. Use of Site. Licensee's use of the Site pursuant to this Agreement shall be at its sole risk and expense, and except as otherwise expressly provided herein, City shall not be required to provide any services (including, without limitation, lighting, utilities, maintenance or security services) in connection with such Licensed Use.

6. Restoration of Site. At the conclusion of this Agreement and on or before the Termination Date, Licensee shall, at its sole cost and expense and with no contribution by City, restore the Site to the same condition found on the Commencement Date, to the satisfaction of City. Licensee shall, at its sole cost and expense and with no contribution by City, remove the any and all equipment brought or stored on the Site, including but not limited to building materials, tools, and personal property. Any items left by Licensee after the Termination Date may be removed and disposed of by City with no further notice to Licensee. In the event Licensee does not restore the Site to the satisfaction of City, City may choose to perform any necessary repair or restoration of the Site and seek reimbursement from Licensee for the reasonable cost of the repair or restoration.

7. Indemnification by Licensee; Waiver

a. Indemnity. Licensee shall indemnify, defend (with counsel selected by City) and hold City harmless from any loss, claim, damage or expense (including attorneys' fees and costs) including claims for bodily injury (including death) or property damage, resulting directly or indirectly from Licensee, or Licensee's employees', volunteers', contractors', subcontractors' or invitees' (the "**Indemnifying Party**"), use of: the Premises, the Site or personal property, located therein; or from reLicense of or exposure to toxic or hazardous materials brought onto or created on the Premises by the Indemnifying Party as a result of the Licensed Use, including any liability for injury to the person (including death) or property of Licensee, its contractors, subcontractors, representatives, agents, officers, employees, invitees or trespassers, except to the extent such loss, claim, damage or expense results from City's sole negligence or willful misconduct. Furthermore, Licensee shall indemnify and defend (with counsel selected by City) and hold City harmless from any loss, claim, damage or expense (including attorneys' fees and costs) resulting from any claims or actions brought by any governmental or regulatory agency for violations of any laws, statutes, regulations, or standards arising from, resulting from, or in any way connected with the use, presence, or reLicense of any hazardous materials brought onto or created on the Premises by the Indemnifying Party as a result of the Licensed Use. Licensee's obligations hereunder shall survive the expiration or termination of this Agreement, if the incident requiring such defense and indemnity occurred during the Term of this Agreement.

b. Waiver. Licensee, as a material part of the consideration rendered to City in entering into this Agreement, hereby waives all claims against City for damages or loss to the Railcar, any equipment brought or stored onto the Site by Licensee or its contractors or subcontractors, goods, wares and merchandise, in upon and about the Premises or the Site, and for death of or injury to Licensee, its agents, employees, contractors, subcontractors, representatives, or invitees in or about the Premises or the Site from any cause except for City's sole negligence or willful misconduct.

8. Alterations. Licensee shall make no alterations, additions or improvements to the Site or any part thereof, except as shall be required of Licensee under the provisions of Sections 5 and 8 of this Agreement.

9. Repairs and Maintenance; Services. During the Term, Licensee shall, at its sole cost and expense, maintain the Site in an appropriate condition for the Licensed Use and provide such services as may be reasonably necessary in connection therewith. City shall have no obligation whatsoever to maintain or repair the Premises, including the Site, in connection with the Licensed Use.

10. Assignment and Sublicensing. Licensee shall not assign or otherwise transfer its rights hereunder without the prior written consent of City. The terms and conditions of this Agreement shall be binding on and shall inure to the benefit of the parties and their respective heirs, executors, administrators, guardians, custodians, successors and assigns.

11. Notices. All notices, demands, requests, advices or designations that may be or are required to be given by either party to the other hereunder shall be in writing. All notices hereunder shall be sufficiently given, made or delivered if served personally or by national overnight courier service or if sent by United States certified or registered mail, postage prepaid, addressed as follows:

City of Watsonville
Attention:
Ryan Smith, Wastewater Division Manager
500 Clearwater Lane
Watsonville, CA 95076

And to Licensee addressed as follows:

GiveLove
Attention:
Alisa Keeseey, Director
1006 Escalona Drive
Santa Cruz, CA 95060

Each notice referred to in this Section shall be deemed to have been given on the third business day following the date of such mailing (or any earlier date evidenced by a receipt evidencing delivery from such national courier service or United States Postal Service) or immediately if personally delivered to the person to whose attention notices are to be directed. Either party may change its address for notices by giving notice to the other as above provided.

12. Insurance. Licensee's responsibility for the Premises begins immediately upon the Commencement Date and Licensee, at its sole cost and expense, and at no cost to City, shall provide and maintain in full force and effect during the entire term of this License insurance coverage in an amount(s) and in a form acceptable to City as set forth in Exhibit B attached hereto and incorporated herein by reference. Said policies shall be maintained with respect to Licensee's employees, if any, and all vehicles operated on the Premises. The policies shall include the required endorsements, certificates of insurance and coverage verifications as described in Exhibit B. Licensee also agrees to secure renter's liability insurance.

13. Fire Insurance on Site. City shall maintain insurance (or self-insurance through City's joint pool coverage plan) covering the Site.

14. Defaults. The failure of Licensee to observe or perform any of the covenants or provisions of this Agreement to be observed or performed by Licensee, where such failure shall continue for a period of five (5) days after notice thereof by City to Licensee, shall constitute an

"Event of Default."

15. Remedies. Upon the occurrence of any Event of Default. City may, at any time thereafter, without further notice to Licensee and without limiting City in the exercise of any right or remedy which City may have at law or in equity, terminate this Agreement.

16. Hazardous Materials.

a. Compliance with Laws. Licensee shall not cause or permit any Hazardous Material (as defined below) to be brought upon, kept or used in or about the Site by Licensee, its agents, employees, contractors or invitees.

b. Termination of License. City shall have the right to terminate the License in City's sole and absolute discretion in the event that (i) any anticipated use of the Premises by Licensee involves the generation or storage, use, treatment, disposal or release of Hazardous Material in a manner or for a purpose prohibited or regulated by any governmental agency, authority or Hazardous Materials laws; (ii) Licensee has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises, if the contamination resulted from Licensee's action or use of the Premises; or (iii) Licensee is subject to an enforcement order issued by any governmental authority in connection with the reLicense, use, disposal or storage of a Hazardous Material on the Premises.

c. Hazardous Materials Defined. The term "Hazardous Material(s)" shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to, those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of "hazardous substances," "hazardous waste," "hazardous chemical substance or mixture," "imminently hazardous chemical substance or mixture," "toxic substances," "hazardous air pollutant," "toxic pollutant" or "solid waste" in the (a) "CERCLA" or "Superfund" as amended by SARA, 42 U.S.C. Sec. 9601 et seq., (b) RCRA, 42 U.S.C. Sec. 6901 et seq., (c) CWA., 33 U.S.C. Sec. 1251 et seq., (d) CAA, 42 U.S.C. 78401 et seq., (e) TSCA, 15 U.S.C. Sec. 2601 et seq., (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407, (g) OSHA, 29 U.S.C. 651 et seq. (h) Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq., (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), (j) California Superfund, Cal. Health & Safety Code Sec. 25300 et seq., (k) Cal. Hazardous Waste Control Act, Cal. Health & Safety Code Section 25100 et seq., (l) Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq., (m) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq., (n) "Proposition 65," Cal. Health and Safety Code Sec. 25249.5 et seq., (o) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq., (p) California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq., (q) Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq., (r) Hazardous Materials release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541, (s) TCPA, Cal. Health and Safety Code Secs. 25208 et seq., and (t) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other substances, materials and wastes which are, or in the future become regulated under applicable local, state or federal law for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as

defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including, without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents, (ii) any petroleum products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, and (vii) radioactive materials and waste.

d. City's Right to Perform Tests. At any time prior to the expiration of the License Term, City shall have the right to enter upon the Premises in order to conduct tests of water and soil and to deliver to Licensee the results of such tests to demonstrate that levels of any Hazardous Materials in excess of permissible levels has occurred as a result of Licensee's use of the Premises. Licensee shall be solely responsible for and shall indemnify, protect, defend and hold City harmless from and against all claims, costs and liabilities including actual attorneys' fees and costs arising out of or in connection with any removal, remediation, cleanup, restoration and materials required hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials. The testing shall be at Licensee's expense if City has a reasonable basis for suspecting and confirms the presence of Hazardous Materials in the soil or surface or groundwater in on, under, or about the Premises or the Project, which has been caused by or resulted from the activities of Licensee, its agents, employees, contractors or invitees.

e. Hazardous Materials Indemnity. Licensee shall indemnify, defend (by counsel reasonably acceptable to City), protect and hold the City harmless from and against any and all claims, liabilities, penalties, forfeitures, losses and/or expenses, including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact or marketing of the Premises and sums paid in settlement of claims, response costs, cleanup costs, site assessment costs, attorneys' fees, consultant and expert fees, judgments, administrative rulings or orders, fines, costs of death of or injury to any person or damage to any property whatsoever (including, without limitation, groundwater, sewer systems and atmosphere), arising from, or caused or resulting, either prior to or during the License Term, in whole or in part, directly or indirectly, by the presence or discharge in, on, under or about the Premises by Licensee, Licensee's agents, employees, licensees or invitees or at Licensee's direction, of Hazardous Material, or by Licensee's failure to comply with any Hazardous Materials Law, whether knowingly or by strict liability. Licensee's indemnification obligations shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup or detoxification or decontamination of the Premises, and the presence and implementation of any closure, remedial action or other required plans, and shall survive the expiration of or early termination of the License Term. For purposes of the indemnity provided herein, any acts or omissions of Licensee or its employees, agents, customers, subleases, assignees, contractors or subcontractors of Licensee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Licensee.

17. Utilities. City will provide potable water to the Site, at no cost to Licensee.

18. Miscellaneous.

a. Amendments. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

b. Attorneys' Fees. In the event any action, proceeding, mediation or arbitration is brought by either party against the other under this Agreement, the prevailing party shall be entitled to recover from the other party all costs and expenses including the fees of its attorneys in such action or proceeding in such amount as the court, the mediators or the arbitrators, as the case may be, may adjudge reasonable.

c. Interpretation. Unless the context clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; (e) "includes" and "including" are not limiting; and (f) "days" means calendar days unless specifically provided otherwise.

d. Choice of Law: Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action or proceeding instituted arising out of or related to this Agreement shall be filed in a court of competent jurisdiction in San Mateo County, California.

e. Prior Agreements. This Agreement contains all of the agreements of the parties hereto with respect to the Licensed Use, and no prior or contemporaneous agreements or understandings pertaining to any such matters shall be effective for any purpose, except for contemporaneous written agreements, specifically referring to this Agreement, signed by both parties.

f. Counterparts. This Agreement may be executed in any number of counterparts, provided each of the parties hereto executes at least one counterpart; each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts, together, shall constitute but one Agreement.

g. Recordation. This Agreement shall not be recorded.

h. No Interest in Real Property. The parties agree that this Agreement does not and shall not be deemed to (i) constitute a License or a conveyance of personal or real property by City, (ii) confer upon Licensee any right, title, estate or interest in the Site or (iii) create any relationship between City and Licensee other than as licensee and licensor. This Agreement grants to Licensee only a personal privilege to have access to the Site for the purposes, under the terms and upon the conditions granted and provided for hereunder. Licensee's rights pursuant to this Agreement are personal only to Licensee as the licensee named herein and Licensee's agents, contractors or employees and is not assignable or transferable by Licensee by operation of law or otherwise.

*[Signatures follow on the next
page]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF WATSONVILLE, CALIFORNIA, a chartered California municipal corporation

Dated: _____
APPROVED AS TO FORM:

By:


Samantha W. Zutler
City Attorney

Rene Mendez
City Manager
275 Main Street #400
Watsonville, CA 95076
Telephone: (831) 768-3010

“CITY”

**GIVELOVE
CALIFORNIA NONPROFIT CORPORATION**

Dated: 5/26/2023 | 8:11 AM PDT
DocuSigned by: _____

By: 
(Signature of Person executing the Agreement on behalf of Licensee)

Name: Alisa Keesey

Title: Director

Local Address: 1006 Escalona Drive
Santa Cruz, CA 95060

Email Address: alisakeesey@icloud.com

Telephone: (831) 325-3187

Fax: () N/A

“LICENSEE”

EXHIBIT A
SITE - SITE PLAN

(SITE HIGHLIGHTED IN YELLOW)

