



**Notice Requesting Proposals for Management and Beneficial Reuse of Biosolids
Specification No. WRRF1225**

The City of San Luis Obispo is requesting sealed proposals for management and beneficial reuse of biosolids pursuant to Specification No. **WRRF1225**.

All firms interested in receiving further correspondence regarding this Request for Proposals (RFP) will be required to complete a free registration using BidNet Direct (www.bidnetdirect.com/).

All proposals must be received via BidNet Direct by January 20, 2026 at 3 p.m., when they will then be opened electronically via BidNet Direct on the proposal end date and time.

The preferred method for bid submission is electronic via BidNet Direct. However, if you wish to submit a paper copy, please submit it in a sealed envelope plainly marked "Proposal for Management and Beneficial Reuse of Biosolids," to the Department of Finance, at 990 Palm Street, San Luis Obispo, CA, 93401, at or before 3pm on January 20, 2026.

Project packages and additional information may be obtained at the City's BidNet Direct website at www.BidNetDirect.com.

For technical help with BidNet Direct please contact BidNet Direct tech support at 800-835-4603.



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A. INTRODUCTION

The City of San Luis Obispo is located on the Central Coast, approximately halfway between San Francisco and Los Angeles. The City's Water Resource Recovery Facility (WRRF) provides tertiary treatment to approximately 3.5 million gallons per day. All biosolids removed in the treatment process are anaerobically digested by two digesters operated in a parallel configuration. The digesters provide around 40 days of total detention time at 35 degrees C. Volatile solids reduction averages 65%. After digestion, the biosolids are dewatered using a screw press, while alternatively, some may be dried in drying beds or via a belt filter press. Moisture content ranges from 75-85%. The City's biosolids meet the Exceptional Quality (EQ) requirements for pollutants, 40 CFR 503.13, and vector attraction, 40 CFR 503.33(b), and meet alternative 2 for Processes to Significantly Reduce Pathogens (PSRP) [40 CFR 503.32(b)(3)] using anaerobic digestion. Overall, the City produces 2,000 to 4,000 tons of Class B Pollutant Concentration (PC) quality biosolids.

B. SCOPE OF WORK

The contractor shall provide all services related to transportation, beneficial reuse, permitting, and monitoring of the City's biosolids in accordance with all applicable federal, state, and local requirements. The contractor's proposal shall include a detailed description of the proposed method of biosolids reuse and shall include, but not be limited to, the following:

1. The contractor shall provide, with its proposal, all required regulatory permits for hauling and beneficial reuse of the entire quantity of biosolids as specified herein. The contractor shall provide a detailed description of the beneficial use process being proposed for the City's biosolids. Submittals proposing mono-filling, landfilling, alternative daily cover, and/or incineration will not be considered. The contractor shall be responsible for all fees associated with permitting. The contractor shall also be responsible at its expense for meeting all monitoring and reporting requirements imposed by all regulatory agencies having jurisdiction over the contractor's beneficial reuse operations; and shall provide at its expense all capital improvements, and shall pay all operating expenses, needed at the beneficial reuse site to protect surface and groundwater and the site resources per the requirements of the responsible regulatory agencies. Copies of all the regulatory monitoring, permits, and background data shall be provided to the City. Representatives of the City shall be permitted on the beneficial reuse site at all times.
2. The contractor shall be responsible for hauling 100 percent of the biosolids being generated from the City's WRRF, approximately 2,000 to 4,000 tons/year, for a period of five years. The contractor's responsibilities shall include furnishing and maintaining all biosolids trailers and bins, including water tight and covered trailers as required; furnishing and maintaining all truck tractors required to transport the trailers; furnishing all drivers and operators; furnishing all vehicle fuel required to transport the biosolids from the City to the beneficial reuse site and return trip; provide and maintain full vehicle insurance, general liability insurance and workers' compensation insurance as required by law and identified in section C The contractor shall also be responsible for and pay all traffic violations incurred as a result of hauling operations.

The contractor shall furnish two bins for in-service operation and two bins for standby on-site at all times. A site map and photos are presented below in Figure 1. Additional information about loading operations is available upon request.

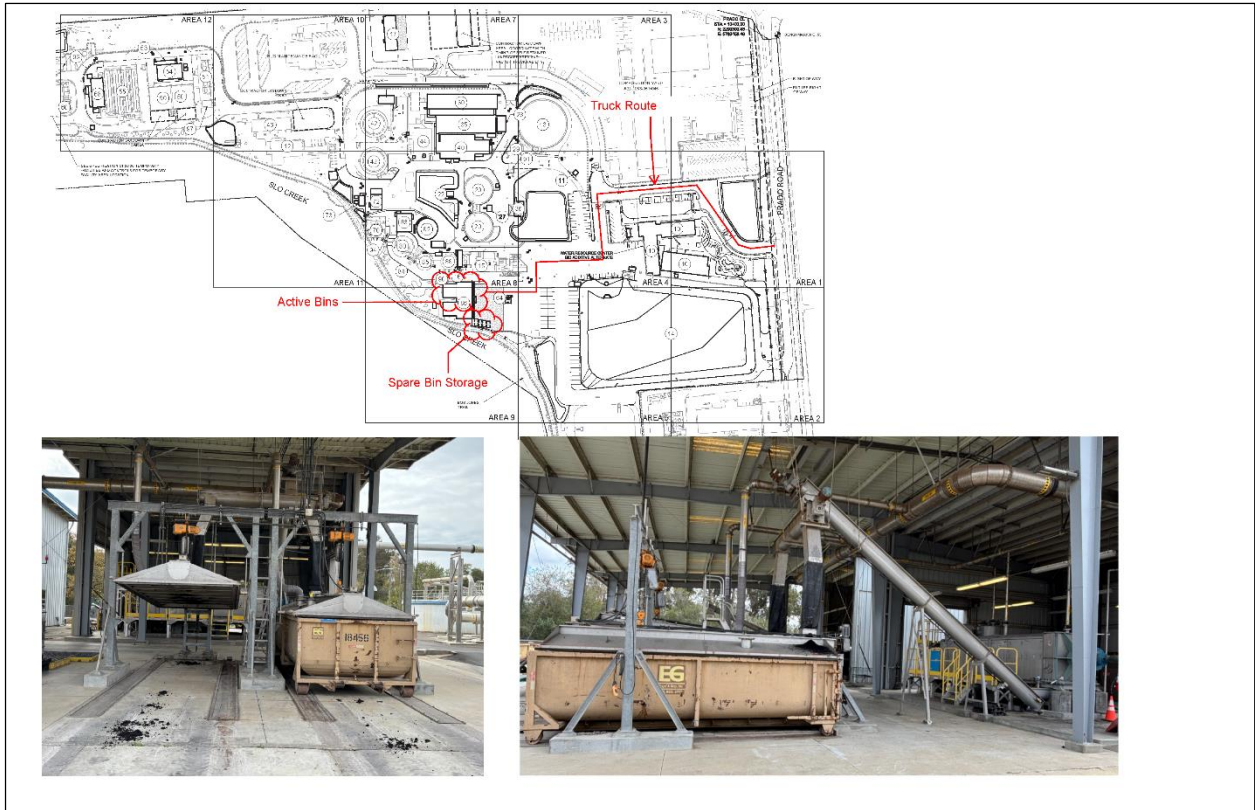


Figure 1: Biosolids loading bins and site

4. The contractor shall provide sufficient facilities and/or land to accommodate 150 percent of the total anticipated amount of biosolids to beneficial reuse during the contract period. Approved regulatory permits for the facilities and/or land to be utilized as the contractor's application area shall be provided with the contractor's proposal.
5. The contractor shall be responsible for furnishing all equipment, labor, and materials for the beneficial reuse operations.

The contractor's responsibilities shall include furnishing and maintaining all equipment required to support its operations; furnishing all vehicle operators and support personnel needed to support its operations; furnishing all vehicle and support equipment fuel; and providing and maintaining full vehicle and equipment insurance, general liability insurance, and workers' compensation insurance as required by law.

SPECIAL REQUIREMENTS

1. The contractor selected will be required to enter into a contract with the City. In addition, the contractor will be required to secure and maintain in force throughout the duration of the contract insurance as described in Section C.
2. Firms or individuals submitting a proposal and any associate Contractor or subcontractor must be legally qualified in the State of California to practice the work required in this RFP and must hold all licenses and/or registrations required by law.

MINIMUM QUALIFICATIONS

The contractor shall have previous operating experience with similar projects. The contractor shall currently be providing similar services for at least three public agencies and have been in business for a minimum of five years, performing professional biosolids hauling and composting services in the wastewater field in the state of California. The contractor shall be knowledgeable of all applicable regulatory requirements and shall provide with the proposal all permits required for the proposed project. Proposals submitted with permits pending approval by the appropriate regulatory agencies may be considered, provided the proposer can demonstrate to the City's satisfaction that the permits will be obtained in a manner that does not impact the project's time constraints. All required permits will be needed before contract approval. The contractor shall be capable of hauling to the proposed discharge area within thirty days following notice to proceed.

ESTIMATED QUANTITIES

The estimated annual biosolids production is 2,000 to 4,000 tons per year.*

**This value is an approximation only, based on past hauling records and current operation of the WRRF.*

The proposer shall base its cost proposal on the following constraints: the proposer shall be required to haul 100 percent of the biosolids being produced at the City's WRRF to the proposer's beneficial reuse site. The proposer shall provide facilities (land) of sufficient area to accommodate 150 percent of the total estimated biosolids to be hauled.

OPERATIONAL PROCEDURES AND HAULING SCHEDULES

Operational procedures shall be mutually arranged between the City and the successful proposer. The proposer shall provide sufficient equipment to continuously remove biosolids generated from the WRRF site. Actual details of scheduling shall be refined with experience. The actual haul schedule shall be arranged between the City and the successful proposer. The City reserves the right to solely determine the schedule in the case of conflict. The successful proposer will remove biosolids and deliver replacement bins at a rate consistent with the operational needs of the WRRF. The proposer shall prioritize full bins in the process line-up -- specifically, full bins beneath the Level-Lodor units shall be removed and replaced with empty bins before full bins staged elsewhere on site are taken (See Figure 1 on the preceding page).

Costs shall be based on a unit cost per ton (2000 pounds). All load weights shall be provided by certified scales and provided to the City with contract invoicing.

LOAD WEIGHT

It shall be the responsibility of the proposer to ensure that each trailer is loaded to the proper weight. The City shall require the proposer to provide the certified load weight of each vehicle at no additional cost to the City.

It shall be the responsibility of the City to ensure that each bin is loaded to the proper weight.

LICENSING

All equipment utilized in connection with this contract shall be fully licensed to operate on the highways of the State of California. All public highway drivers and operators of such equipment shall be fully licensed by

the State of California Department of Motor Vehicles.

EQUIPMENT CLEANING

The proposer shall be responsible for keeping its equipment in a neat and clean manner. Major cleaning and servicing of equipment shall not take place at the City's Water Resource Recovery Facility. Damaged or excessively worn equipment shall be promptly replaced.

RULES AND REGULATIONS

The proposer shall be aware of existing, revised, proposed, and new Federal, State, and Local and other rules and regulations covering its activities in connection with this work.

Changes in regulations or practices necessitated by any revision in rules and regulations shall be brought to the attention of the City sufficiently in advance of implementation to permit adjustment of the schedule or method of operation of the proposer.

The City shall not be responsible for notifying the proposer of any changes in rules and regulations regarding the handling and delivery of biosolids that affect its operations.

C. GENERAL TERMS AND CONDITIONS

PROPOSAL REQUIREMENTS

1. **Requirement to Meet All Provisions.** Each individual or firm submitting a proposal (bidder) shall meet all the terms, and conditions of the Request for Proposals (RFP) project package. By virtue of its proposal submittal, the bidder acknowledges agreement with and acceptance of all provisions of the RFP specifications.
2. **Proposal Submittal.** Each proposal must be submitted on the form(s) provided in the specifications and accompanied by any other required submittals or supplemental materials. Proposal documents shall be submitted electronically via BidSync. However, if you can't submit electronically in BidSync, please email a copy to the contacts listed in the RFP package, if you can't email it, please send a copy in a sealed envelope to the Department of Finance, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA, 93401. To guard against premature opening, the proposal should be clearly labeled with the proposal title, project number, name of bidder, and date and time of proposal opening. No FAX submittals will be accepted.
3. **Insurance Certificate.** Each proposal must include a certificate of insurance showing:
 - a. The insurance carrier and its A.M. Best rating.
 - b. Scope of coverage and limits.
 - c. Deductibles and self-insured retention.

The purpose of this submittal is to generally assess the adequacy of the bidder's insurance coverage during proposal evaluation; endorsements are not required until contract award. The City's insurance requirements are detailed in Exhibit C to the Agreement (Exhibit A to the RFP).

4. **Proposal Quotes and Unit Price Extension.** The extension of unit prices for the quantities indicated, and the lump sum prices quoted by the bidder must be entered in figures in the spaces provided on the Proposal Submittal Form(s). Any lump sum bid shall be stated in figures. The Proposal Submittal Form(s) must be totally completed. If the unit price and the total amount stated by any bidder for any item are not in agreement, the unit price alone will be considered as representing the bidder's intention and the proposal total will be corrected to conform to the specified unit price.
5. **Proposal Withdrawal and Opening.** A bidder may withdraw its proposal, without prejudice prior to the time specified for the proposal opening, by submitting a written request to the Director of Finance for its withdrawal, in which event the proposal will be returned to the bidder unopened. No proposal received after the time specified or at any place other than that stated in the "Notice Inviting Bids/Requesting Proposals" will be considered. All proposals will be opened and declared publicly. Bidders or their representatives are invited to be present at the opening of the proposals.
6. **Submittal of One Proposal Only.** No individual or business entity of any kind shall be allowed to make or file, or to be interested as the primary submitter in more than one proposal, except an alternative proposal when specifically requested; however, an individual or business entity that has submitted a sub-proposal to a bidder submitting a proposal, or who has quoted prices on materials to such bidder, is not thereby disqualified from submitting a sub-proposal or from quoting prices to other bidders submitting proposals.
7. **Communications.** All timely requests for information submitted in writing will receive a written response from the City. Telephone communications with City staff are not encouraged but will be permitted. However, any such oral communication shall not be binding on the City.
8. **Proposal Retention and Award.** The City reserves the right to retain all proposals for a period of 60 days for examination and comparison. The City also reserves the right to waive non-substantial irregularities in any proposal, to reject any or all proposals, to reject or delete one part of a proposal and accept the other, except to the extent that proposals are qualified by specific limitations. See the "special terms and conditions" in Section D of these specifications for proposal evaluation and contract award criteria.
9. **Competency and Responsibility of Bidder.** The City reserves full discretion to determine the competence and responsibility, professionally and/or financially, of bidders. Bidders will provide, in a timely manner, all information that the City deems necessary to make such a decision.
10. **Contract Requirement.** The bidder to whom award is made (Contractor) shall execute a written contract with the City within ten (10) calendar days after notice of the award. The contract shall be made in a form substantially similar to that set forth in Exhibit A and incorporated in these specifications.

D. SPECIAL TERMS AND CONDITIONS

1. **Contract Award.** The contract will be awarded to the most qualified bidder that, in the City's sole discretion in accordance with the Proposal Evaluation and Selection criteria set forth herein (if applicable), provides the best proposal.
2. **Sales Tax Reimbursement.**
For sales occurring within the City of San Luis Obispo, the City receives sales tax revenues. Therefore, for bids from retail firms located in the City at the time of proposal closing for which sales tax is allocated to the City, 1% of the taxable amount of the bid will be deducted from the proposal by the City in calculating and determining the most qualified, lowest cost bidder.
3. **Labor Actions.**
In the event that the successful proposer is experiencing a labor action at the time of contract award (or if its suppliers or subcontractors are experiencing such a labor action), the City reserves the right to declare said proposer is no longer the most qualified, responsive proposer and to accept the next acceptable proposal from a proposer that is not experiencing a labor action, and to declare it to be the most qualified, responsive proposer.
4. **Failure to Accept Contract.**
The following will occur if the proposer to whom the award is made (Contractor) fails to enter into the contract: the award will be annulled; any bid security will be forfeited in accordance with the special terms and conditions if a proposer's bond or security is required; and an award may be made to the next lowest responsible, responsive proposer who shall fulfill every stipulation as if it were the party to whom the first award was made.
5. **Contract Term.**
The supplies or services identified in this specification will be used by the City for five years. The prices quoted for these items must be valid for the entire period indicated above unless otherwise conditioned by the proposer in its proposal.
6. **Contract Extension.**
The term of the contract may be extended by written mutual consent for an additional five years.
7. **Supplemental Purchases.**
Supplemental purchases may be made from the successful proposer during the contract term in addition to the items listed in the Detail Proposal Submittal Form. For these supplemental purchases, the proposer shall not offer prices to the City in excess of the amounts offered to other similar customers for the same item. If the proposer is willing to offer the City a standard discount on all supplemental purchases from its generally prevailing or published price structure during the contract term, this offer and the amount of discount on a percentage basis should be provided with the proposal submittal.
8. **Contractor Invoices.**
The Contractor may deliver either a monthly invoice to the City with attached copies of detailed invoices as supporting detail. Final June invoices shall be received no later than the 5th business

day of July to meet City fiscal year-end deadlines.

9. **Non-Exclusive Contract.** The City reserves the right to purchase the items listed in the Detail Proposal Submittal Form, as well as any supplemental items, from other vendors during the contract term.
10. **Unrestrictive Brand Names.** Any manufacturer's names, trade names, brand names or catalog numbers used in the specifications are for the purpose of describing and establishing general quality levels. Such references are not intended to be restrictive. Proposals will be considered for any brand that meets or exceeds the quality of the specifications given for any item. In the event an alternate brand name is proposed, supplemental documentation shall be provided demonstrating that the alternate brand name meets or exceeds the requirements specified herein. The burden of proof as to the suitability of any proposed alternatives is upon the proposer, and the City shall be the sole judge in making this determination.
11. **Delivery.** Prices quoted for all supplies or equipment to be provided under the terms and conditions of this RFP package shall include delivery charges, to be delivered F.O.B. San Luis Obispo by the successful proposer and received by the City within 90 days after authorization to proceed by the City.
12. **Start and Completion of Work.** Work on this project shall begin immediately after contract execution and shall be completed within 90 calendar days thereafter, unless otherwise negotiated with City by mutual agreement.
13. **Change in Work.** The City reserves the right to change quantities of any item after contract award. If the total quantity of any changed item varies by 25% or less, there shall be no change in the agreed upon unit price for that item. Unit pricing for any quantity changes per item in excess of 25% shall be subject to negotiation with the Contractor.
14. **Submittal of References.** Each proposer shall submit a statement of qualifications and references on the form provided in the RFP package.
15. **Statement of Contract Disqualifications.** Each proposer shall submit a statement regarding any past governmental agency bidding or contract disqualifications on the form provided in the RFP package.

Proposal Content

1. **Proposal Content.** Your proposal must include the following information:

Submittal Forms

- a. Proposal submittal summary.
- b. Certificate of insurance.
- c. References from at least three firms for whom you have provided similar services.

Qualifications

- d. Experience of your firm in performing similar services.
- e. Standard billing rates for the identified scope, including any sub-consultants.
Proposed compensation shall include and clearly identify any City-specific discounts or preferred rates related to performance discounts.
- f. Statement and explanation of any instances where your firm has been removed from a project or disqualified from proposing on a project.

Work Program

- g. Description of your approach to completing the work.
- h. Services or data to be provided by the City.
- i. Any other information that would assist us in making this contract award decision.

Proposal Length and Copies

- j. Proposals should not exceed 30 pages, including attachments and supplemental materials.
- k. Two copies of the proposal must be submitted.

2. **Proposal Evaluation and Consultant Selection.** Proposals will be evaluated by a review committee using a two-phase selection and contract award process as follows:

Phase 1 – Written Proposal Review/Finalist Candidate Selection

A group of finalist candidates (generally the top 3 to 5 five proposers) will be selected for follow-up interviews and presentations based on the following criteria as evidenced in their written proposals:

- a. Understanding of the work required by the City.
- b. Quality, clarity and responsiveness of the proposal.
- c. Demonstrated competence and professional qualifications necessary for successfully performing the work required by the City.
- d. Recent experience in successfully performing similar services.
- e. Proposed approach in completing the work.
- f. References.
- g. Background and experience of the specific individuals to be assigned to this project.

3. **Proposal Review and Award Schedule.** The following is an outline of the anticipated schedule for proposal review and contract award:

- | | |
|----------------------------------|------------|
| a. Issue RFP | 12/10/2025 |
| b. Receive proposals | 1/20/2026 |
| c. Complete proposal evaluations | 1/22/2026 |
| d. Execute contract | 2/1/2026 |
| e. Start work | 2/2/2026 |

4. **Ownership of Materials.** All original drawings, plan documents and other materials prepared by or in possession of the Contractor as part of the work or services under these specifications shall become the permanent property of the City and shall be delivered to the City upon demand.

5. **Release of Reports and Information.** Any reports, information, data, or other material given to, prepared by or assembled by the Contractor as part of the work or services under these specifications shall be the property of the City and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

6. **Copies of Reports and Information.** If the City requests additional copies of reports, drawings, specifications, or any other material in addition to what the Contractor is required to furnish in limited quantities as part of the work or services under these specifications, the Contractor shall provide such additional copies as are requested, and City shall compensate the Contractor for the costs of duplicating of such copies at the Contractor's direct expense.

7. **Required Deliverable Products.** The Contractor will be required to provide:

- a. One electronic submission - digital-ready original .pdf of all final documents. If Contractor wishes to file a paper copy, it must be submitted in a sealed envelope to the address provided in the RFP.
- b. Corresponding computer files compatible with the following programs whenever possible unless otherwise directed by the project manager:

Word Processing:	MS Word
Spreadsheets:	MS Excel
Desktop Publishing:	InDesign
Virtual Models:	Sketch Up
Digital Maps:	Geodatabase shape files in State Plan Coordinate System as specified by City GIS staff

- c. City staff will review any documents or materials provided by the Contractor and, where necessary, the Contractor will be required to respond to staff comments and make such changes as deemed appropriate.

ALTERNATIVE PROPOSALS

8. **Alternative Proposals.** The proposer may submit an alternative proposal (or proposals) that it believes will also meet the City's project objectives but in a different way. In this case, the

proposer must provide an analysis of the advantages and disadvantages of each of the alternative and discuss under what circumstances the City would prefer one alternative to the other(s).

9. **Accuracy of Specifications.** The specifications for this project are believed by the City to be accurate and to contain no affirmative misrepresentation or any concealment of fact. Bidders are cautioned to undertake an independent analysis of any test results in the specifications, as City does not guaranty the accuracy of its interpretation of test results contained in the specifications package. In preparing its proposal, the bidder and all subcontractors named in its proposal shall bear sole responsibility for proposal preparation errors resulting from any misstatements or omissions in the plans and specifications that could easily have been ascertained by examining either the project site or accurate test data in the City's possession. Although the effect of ambiguities or defects in the plans and specifications will be as determined by law, any patent ambiguity or defect shall give rise to a duty of bidder to inquire prior to proposal submittal. Failure to so inquire shall cause any such ambiguity or defect to be construed against the bidder. An ambiguity or defect shall be considered patent if it is of such a nature that the bidder, assuming reasonable skill, ability and diligence on its part, knew or should have known of the existence of the ambiguity or defect. Furthermore, failure of the bidder or subcontractors to notify City in writing of specification or plan defects or ambiguities prior to proposal submittal shall waive any right to assert said defects or ambiguities subsequent to submittal of the proposal.

To the extent that these specifications constitute performance specifications, the City shall not be liable for costs incurred by the successful bidder to achieve the project's objective or standard beyond the amounts provided there for in the proposal.

In the event that, after awarding the contract, any dispute arises as a result of any actual or alleged ambiguity or defect in the plans and/or specifications, or any other matter whatsoever, Contractor shall immediately notify the City in writing, and the Contractor and all subcontractors shall continue to perform, irrespective of whether or not the ambiguity or defect is major, material, minor or trivial, and irrespective of whether or not a change order, time extension, or additional compensation has been granted by City. Failure to provide the hereinbefore described written notice within one (1) working day of contractor's becoming aware of the facts giving rise to the dispute shall constitute a waiver of the right to assert the causative role of the defect or ambiguity in the plans or specifications concerning the dispute.

E: PROPOSAL SUBMITTAL FORM

The undersigned declares that she or he has carefully examined [_____] which is hereby made a part of this proposal; is thoroughly familiar with its contents; is authorized to represent the proposing firm; and agrees to perform the specified work for the following cost quoted in full:

BID ITEM:

Total Base Price	
Sales tax []	
Other	
TOTAL	\$

Delivery of equipment to the City to be within _____ calendar days after contract execution and written authorization to proceed.

q Certificate of insurance attached; insurance company's A.M. Best rating: _____.

Firm Name and Address

<i>Contact</i>	<i>Phone</i>

Signature of Authorized Representative

	<i>Date</i>
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REFERENCES

Number of years engaged in providing the services included within the scope of the specifications under the present business name:_____.

Describe fully the last three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference No. 1:

Agency Name	
Contact Name	
Telephone & Email	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

Reference No. 2:

Agency Name	
Contact Name	
Telephone & Email	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

Reference No. 3

Agency Name	
Contact Name	
Telephone & Email	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

**CITY OF SAN LUIS OBISPO
PROFESSIONAL SERVICES AGREEMENT**

This agreement (Agreement) is made and entered into in the City of San Luis Obispo on [DATE], by and between the City of San Luis Obispo, a municipal corporation and charter city (City) and [FILL] hereinafter referred to as Contractor (collectively referred to as the “Parties”).

WITNESSETH:

WHEREAS, on December 10, City requested proposals for Management and Beneficial Reuse of Biosolids, per Project No. WRRF1225 (the “Project”); and

WHEREAS, the City wants to obtain hauling and disposal services for biosolids generated by the Water Resource Recovery Facility (the “Services”); and

WHEREAS, Contractor is qualified to perform these types of Services and has submitted a written proposal to do so, which has been accepted by City.

NOW, THEREFORE, in consideration of their mutual promises, obligations, and covenants hereinafter contained, the Parties hereto agree as follows:

1. **TERM.** The term of this Agreement shall be from the date this Agreement is made and entered, as first written above, until February 1, 2031, or upon acceptance and completion of said Services, whichever occurs sooner. The term of the contract may be extended by written mutual consent for an additional five years.
2. **INCORPORATION BY REFERENCE.** The Notice Requesting Proposals for Management and Beneficial Reuse of Biosolids Specification No. WRRF1225 and Contractor's proposal dated [date] are hereby incorporated in and made a part of this Agreement, attached as Exhibit A. The City's insurance requirements are hereby incorporated in and made part of this Agreement, attached as Exhibit B. To the extent that there are any conflicts between the Contractor's fees and scope of work and the City's terms and conditions as stated herein, the City's terms and conditions shall prevail unless specifically agreed otherwise in writing signed by both Parties.
3. **CITY'S OBLIGATIONS.** For providing services as specified in this Agreement, and upon receipt of an invoice, City will pay and Contractor shall receive compensation as set forth in Contractor's proposal and pursuant to the Payment Terms set forth in Exhibit B.

4. **CONTRACTOR'S OBLIGATIONS.** For and in consideration of the payments and agreements herein before mentioned to be made and performed by City, Contractor agrees with City to do everything required by this Agreement including that work as set forth in Exhibit A.
5. **PAYMENT OF TAXES.** The contract prices shall include full compensation for all taxes that Contractor is required to pay.
6. **LICENSES AND PERMITS.** At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the Services described in this Agreement. The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary under this Agreement.
7. **COMPLIANCE WITH LAW.** The Contractor shall keep itself informed of and shall observe and comply with all applicable State and Federal laws and regulations, and county and City of San Luis Obispo ordinances, regulations and adopted codes, which in any manner affect those employed by Contractor or in any way affect the performance of the Services pursuant to this Agreement. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section. Failure to comply with local ordinances may result in monetary fines and cancellation of this Agreement.
8. **COMPLIANCE WITH INDUSTRY STANDARD.** Contractor shall provide services acceptable to City in strict conformance with the Agreement. Contractor shall also provide in accordance with the standards customarily called for under this Agreement using the degree of care and skill ordinarily exercised by reputable providers of such services. Where approval by the City, the City Manager, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.
9. **INDEPENDENT CONTRACTOR.**
 - a. Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents, except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation, or liability whatsoever against City, or bind City in any manner.
 - b. No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing the Services hereunder for City. City shall not be liable for

compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

- c. Contractor/Contractor's duties and services under this agreement shall not include preparing or assisting the public entity with any portion of the public entity's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the public entity. The public entity entering this agreement shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Contractor/Contractor's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Contractor/Contractor shall cooperate with the public entity to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this agreement."

10. **PRESERVATION OF CITY PROPERTY.** The Contractor shall provide and install suitable safeguards, approved by the City, to protect City property from injury or damage. If City property is injured or damaged resulting from Contractor's operations, it shall be replaced or restored at Contractor's expense. The City's facilities shall be replaced or restored to a condition as good as when the Contractor began the work.
11. **IMMIGRATION ACT OF 1986.** The Contractor warrants on behalf of itself and all subcontractors engaged for the performance of the Services that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the Services hereunder.
12. **NON-DISCRIMINATION.** In the performance of the Services, the Contractor agrees that it will not engage in, nor permit such subContractors as it may employ, to engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.
13. **PAYMENT TERMS.** The City's payment terms are 30 days from the receipt of an original invoice and acceptance by the City of the materials, supplies, equipment, or services provided by the Contractor (Net 30). Contractor will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Final June invoices shall be received no later than the 5th business day of July to meet City fiscal year-end deadlines. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees it shall give written notice to Contractor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within forty-five (45) days of receipt of an invoice, therefore.

14. **INSPECTION.** City shall at all times have the right to inspect the work being done under this Agreement and Contractor shall furnish City with every reasonable opportunity and assistance required for City to ascertain that the Services of the Contractor are being performed in accordance with the requirements and intentions of this Agreement. All work done, and all materials furnished, if any, shall be subject to the City's inspection and approval. The inspection of such work shall not relieve Contractor of any of its obligations under the Agreement.

15. **RELEASE OF INFORMATION.**

- a. All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released by Contractor without City's prior written authorization. Contractor, its officers, employees, agents, or subContractors, shall not, without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.
- b. Contractor shall promptly notify City should Contractor, its officers, employees, agents, or subContractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement, unless the City is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless Contractor is prohibited by law from informing the City of such Discovery. City retains the right, but has no obligation, to represent Contractor and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is averse to Contractor in such proceeding, Contractor agrees to cooperate fully with City and to provide the opportunity to review any response to Discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

16. **OWNERSHIP OF DOCUMENTS.**

- a. Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of the Services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees

at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

- b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the Services under this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files, Contractor shall make available to the City, at the Contractor's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Contractor hereby grants to City all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Contractor in the course of providing the Services under this Agreement.

17. INDEMNIFICATION AND DEFENSE. To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), Contractor shall indemnify, defend, and hold harmless the City, and its elected officials, officers, employees, volunteers, and agents ("City Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Contractor's performance or Contractor's failure to perform its obligations under this Agreement or out of the operations conducted by Contractor, including the City's passive negligence, except for such loss or damage arising from the sole or active negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City's option, reimburse the City Indemnitees the ir costs of defense, including reasonable legal fees, incurred in defense of such claims. The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section survives the completion of the services or the termination of this contract. The provisions of this section are not limited by and do not affect the provisions of this contract relating to insurance. Contractor's indemnification obligations under this section extend to any claims arising out of or related to the negligence, recklessness, or willful misconduct of any sub-Contractors/ subcontractors.

18. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.

- a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least thirty (30) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.
- b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Section 14.

19. TERMINATION FOR CAUSE. If, during the term of the Agreement, the City determines the Contractor is not faithfully abiding by any term or condition contained herein, the City may notify the Contractor in writing of such defect or failure to perform. This notice must give the Contractor a ten (10) calendar day notice of time thereafter in which to perform said work or cure the deficiency.

- a. If the Contractor has not performed the work or cured the deficiency within the ten (10) days specified in the notice, such shall constitute a breach of the Agreement and the City may terminate the Agreement immediately by written notice to the Contractor to said effect (“Notice of Termination”). Thereafter, neither party shall have any further duties, obligations, responsibilities, or rights under the Agreement except to comply with the obligations upon termination.
- b. In said event, the Contractor shall be entitled to the reasonable value of its services performed from the beginning date in which the breach occurs up to the day it received the City’s Notice of Termination, minus any offset from such payment representing the City’s damages from such breach. “Reasonable value” includes fees or charges for goods or services as of the last milestone or task satisfactorily delivered or completed by the Contractor as may be set forth in the Agreement payment schedule; compensation for any other work or services performed or provided by the Contractor shall be based solely on the City’s assessment of the value of the work-in-progress in completing the overall scope.
- c. The City reserves the right to delay such payment until completion or confirmed abandonment of the project, as may be determined in the City’s sole discretion, so as to permit a full and complete accounting of costs. In no event, however, shall the Contractor be entitled to receive in excess of the not to exceed amount shown in this Agreement.

20. **INSURANCE.** Contractor shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and made part of this Agreement.
21. **BUSINESS LICENSE & TAX.** The Contractor must have a valid City of San Luis Obispo business license & tax certificate before execution of the contract. Additional information regarding the City's business tax program may be obtained by calling (805) 781-7134.
22. **SAFETY PROVISIONS.** The Contractor shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.
23. **PUBLIC AND EMPLOYEE SAFETY.** Whenever the Contractor operations create a condition hazardous to the public or City employees, it shall, at its expense and without cost to the City, furnish, erect and maintain such fences, temporary railings, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public and employees.
24. **UNDUE INFLUENCE.** Contractor declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City has or will receive compensation, directly or indirectly, from Contractor, or from any officer, employee or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.
25. **ASSIGNMENT.** The Contractor shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City.
26. **AMENDMENT.** Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by the appropriate review authority according to the City's Financial Management Manual. Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized by the City in advance and in writing.
27. **COMPLETE AGREEMENT.** This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete Agreement between the Parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral Agreement, understanding, or representation be binding upon the Parties hereto. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

28. **NOTICE.** All notices to the Parties hereto under this Agreement shall be in writing and shall be sent either by (i) personal service, (ii) delivery by a reputable document delivery service, such as, but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) United States Mail, certified, postage prepaid, return receipt requested. All such notices shall be delivered to the addressee or addressed as set forth below:

To City: Utilities Department
City of San Luis Obispo
879 Morro St
San Luis Obispo, CA 93401

To Contractor: **Name**
Mailing Address

29. **GOVERNING LAW.** Any action arising out of this Agreement shall be brought in the Superior Court of San Luis Obispo County, California, regardless of where else venue may lie. The validity, interpretation, construction and performance of this Agreement, and all acts and transactions pursuant hereto and the rights and obligations of the Parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

30. **AUTHORITY TO EXECUTE AGREEMENT.** Both City and Contractor do covenant that each individual executing this Agreement on behalf of each party is a person duly authorized and empowered to execute Agreements for such party.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed the day and year first above written.

CITY

CONTRACTOR

By: **[Name]**
Its: **[Title of City Manager or Department Head]**

By: **[Name]**
Its: **[Title]**

APPROVED AS TO FORM:

By: J. Christine Dietrick, City Attorney

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. **Business License & Tax.** The Contractor must have a valid City of San Luis Obispo business license & tax certificate before execution of the contract. Additional information regarding the City's business tax program may be obtained by calling (805) 781-7134.
2. **Ability to Perform.** The Contractor warrants that it possesses, or has arranged through subcontracts, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with all federal, state, county, city, and special district laws, ordinances, and regulations.
3. **Laws to be Observed.** The Contractor shall keep itself fully informed of and shall observe and comply with all applicable state and federal laws and county and City of San Luis Obispo ordinances, regulations and adopted codes during its performance of the work.
4. **Payment of Taxes.** The contract prices shall include full compensation for all taxes that the Contractor is required to pay.
5. **Permits and Licenses.** The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary.
6. **Safety Provisions.** The Contractor shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.
7. **Public and Employee Safety.** Whenever the Contractor's operations create a condition hazardous to the public or City employees, it shall, at its expense and without cost to the City, furnish, erect and maintain such fences, temporary railings, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public and employees.
8. **Preservation of City Property.** The Contractor shall provide and install suitable safeguards, approved by the City, to protect City property from injury or damage. If City property is injured or damaged resulting from the Contractor's operations, it shall be replaced or restored at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor began work.
9. **Immigration Act of 1986.** The Contractor warrants on behalf of itself and all subcontractors engaged for the performance of this work that only persons authorized to work in the United State pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.

10. **Non-Discrimination.** In the performance of this work, the Contractor agrees that it will not engage in, nor permit such subcontractors as it may employ, to engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.

11. **Work Delays.** Should the Contractor be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of the City, or by strikes, fire, earthquake, or any other Act of God, or by the inability to obtain materials, equipment, or labor due to federal government restrictions arising out of defense or war programs, then the time of completion may, at the City's sole option, be extended for such periods as may be agreed upon by the City and the Contractor. In the event that there is insufficient time to grant such extensions prior to the completion date of the contract, the City may, at the time of acceptance of the work, waive liquidated damages that may have accrued for failure to complete on time, due to any of the above, after hearing evidence as to the reasons for such delay, and making a finding as to the causes of same.

12. **Payment Terms.** The City's payment terms are 30 days from the receipt of an original invoice and acceptance by the City of the materials, supplies, equipment, or services provided by the Contractor (Net 30). Contractor will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Final June invoices shall be received no later than the 5th business day of July to meet City fiscal year-end deadlines. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees it shall give written notice to Contractor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within forty-five (45) days of receipt of an invoice, therefore.

13. **Inspection.** The Contractor shall furnish City with every reasonable opportunity for City to ascertain that the services of the Contractor are being performed in accordance with the requirements and intentions of this contract. All work done, and all materials furnished, if any, shall be subject to the City's inspection and approval. The inspection of such work shall not relieve Contractor of any of its obligations to fulfill its contract requirements.

14. **Audit.** The City shall have the option of inspecting and/or auditing all records and other written materials used by Contractor in preparing its invoices to City as a condition precedent to any payment to Contractor.

15. **Interests of Contractor.** The Contractor covenants that it presently has no interest, and shall not acquire any interest—direct, indirect or otherwise—that would conflict in any manner or degree with the performance of the work hereunder. The Contractor further covenants that, in the performance of this work, no subcontractor or person having such an interest shall be employed. The Contractor certifies that no one who has or will have any financial interest in performing this work is an officer or employee of the City. It is hereby expressly agreed that, in

the performance of the work hereunder, the Contractor shall at all times be deemed an independent contractor and not an agent or employee of the City.

16. Hold Harmless and Indemnification.

(a) **Non-design, non-construction Professional Services:** To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), Contractor shall indemnify, defend, and hold harmless the City, and its elected officials, officers, employees, volunteers, and agents (“City Indemnitees”), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels’ fees and costs of litigation (“claims”), arising out of the Contractor’s performance or Contractor’s failure to perform its obligations under this Agreement or out of the operations conducted by Contractor, including the City’s active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor’s performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City’s option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims.

(b) **Non-design, construction Professional Services:** To the extent the Scope of Services involve a “construction contract” as that phrase is used in Civil Code Section 2783, this paragraph shall apply in place of paragraph A. To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), Contractor shall indemnify, defend, and hold harmless the City, and its elected officials, officers, employees, volunteers, and agents (“City Indemnitees”), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels’ fees and costs of litigation (“claims”), arising out of the Contractor’s performance or Contractor’s failure to perform its obligations under this Agreement or out of the operations conducted by Contractor, except for such loss or damage arising from the active negligence, sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor’s performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City’s option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims.

(c) **Design Professional Services:** In the event Contractor is a “design professional”, and the Scope of Services require Contractor to provide “design professional services” as those phrases are used in Civil Code Section 2782.8, this paragraph shall apply in place of paragraphs A or B. To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8) Contractor shall indemnify, defend and hold harmless the City and its elected officials, officers, employees, volunteers and agents (“City Indemnitees”), from and against all claims, damages, injuries, losses, and expenses including costs, attorney fees, expert Contractor and expert witness fees arising out of, pertaining to or relating to, the negligence, recklessness or willful misconduct of Contractor, except to the extent caused by the sole

negligence, active negligence or willful misconduct of the City. Negligence, recklessness or willful misconduct of any subcontractor employed by Contractor shall be conclusively deemed to be the negligence, recklessness or willful misconduct of Contractor unless adequately corrected by Contractor. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City Indemnitees or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims. In no event shall the cost to defend charged to Contractor

under this paragraph exceed Contractor's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Contractor shall meet and confer with other parties regarding unpaid defense costs.

- (d) The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance. Contractor's indemnification obligations under this section extend to any claims arising out of or related to the negligence, recklessness, or willful misconduct of any sub-Contractors/ subcontractors.

17. **Contract Assignment.** The Contractor shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City.

18. **Safe Harbor.** Contractor/Contractor's duties and services under this agreement shall not include preparing or assisting the public entity with any portion of the public entity's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the public entity. The public entity entering this agreement shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Contractor/Contractor's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Contractor/Contractor shall cooperate with the public entity to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this agreement."

19. **Termination for Convenience.** The City may terminate all or part of this Agreement for any or no reason at any time by giving 30 days written notice to Contractor. Should the City terminate this Agreement for convenience, the City shall be liable as follows: (a) for standard or off-the-shelf products, a reasonable restocking charge not to exceed ten (10) percent of the total purchase price; (b) for custom products, the less of a reasonable price for the raw materials, components work in progress and any finished units on hand or the price per unit reflected on this Agreement. For termination of any services pursuant to this Agreement, the City's liability will be the lesser of a reasonable price for the services rendered prior to termination, or the price for the services reflected on this Agreement. Upon termination notice from the City, Contractor must, unless otherwise directed, cease work and follow the City's directions as to work in progress and finished goods.

20. **Termination.** If, during the term of the contract, the City determines that the Contractor is not faithfully abiding by any term or condition contained herein, the City may

notify the Contractor in writing of such defect or failure to perform. This notice must give the Contractor a 10 (ten) calendar day notice of time thereafter in which to perform said work or cure the deficiency.

If the Contractor has not performed the work or cured the deficiency within the ten days specified in the notice, such shall constitute a breach of the contract and the City may terminate the contract immediately by written notice to the Contractor to said effect. Thereafter, neither party shall have any further duties, obligations, responsibilities, or rights under the contract except, however, any and all obligations of the Contractor's surety shall remain in full force and effect, and shall not be extinguished, reduced, or in any manner waived by the terminations thereof.

In said event, the Contractor shall be entitled to the reasonable value of its services performed from the beginning date in which the breach occurs up to the day it received the City's Notice of Termination, minus any offset from such payment representing the City's damages from such breach. "Reasonable value" includes fees or charges for goods or services as of the last milestone or task satisfactorily delivered or completed by the Contractor the Agreement payment schedule; compensation for any other work, services or goods performed or provided by the Contractor shall be based solely on the City's assessment of the value of the work-in-progress in completing the overall work scope.

The City reserves the right to delay any such payment until completion or confirmed abandonment of the project, as may be determined in the City's sole discretion, so as to permit a full and complete accounting of costs. In no event, however, shall the Contractor be entitled to receive in excess of the compensation quoted in its proposal.

Exh C - Insurance

The Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the products and materials supplied to the City. The cost of such insurance shall be borne by the Contractor.

Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001);
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto). The Contractor's commercial automobile policy shall be specifically endorsed to include coverage for the transportation of pollutants and/ or hazardous materials.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Contractor's Pollution Liability Insurance coverage covering the handling, remediation, cleanup or transport of hazardous materials or hazardous wastes.

Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$3,000,000 per occurrence, \$6,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.
2. Automobile Liability: Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$5,000,000 combined single limit for each accident.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Umbrella or excess liability insurance (if applicable): Contractor shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability,

automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- a. A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
 - b. Pay on behalf of wording as opposed to reimbursement;
 - c. Concurrency of effective dates with primary policies; and
 - d. Policies shall "follow form" to the underlying primary policies.
 - e. Insureds under primary policies shall also be insureds under the umbrella or excess policies.
5. Contractor's Pollution Liability: Environmental Impairment Liability Insurance shall be written on a Contractor's Pollution Liability form or other form acceptable to Agency providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than \$1,000,000 dollars per claim and in the aggregate. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions. The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. General liability policies shall provide or be endorsed to provide that Agency and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.
2. The Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against Agency, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Vendor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Vendor hereby waives its own right of recovery against Agency and shall require similar written express waivers and insurance clauses from

each of its subconsultants.

4. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against Agency, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against Agency and shall require similar written express waivers and insurance clauses from each of its subconsultants.
5. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. **Notice of Reduction in Coverage.** In the event that any coverage required under the Agreement is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to Agency at Contractor's earliest possible opportunity and in no case later than five days after Contractor is notified of the change in coverage.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

Verification of Coverage. The Contractor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.