

---

**REQUEST FOR PROPOSALS**  
**RFP NO. 01-2018**  
**BIOSOLIDS MANAGEMENT**  
**LITTLE PATUXENT WATER RECLAMATION PLANT**

**OPENING: JULY 26, 2017, 2016 AT 11:00 A.M.**  
**PRE-PROPOSAL CONFERENCE: JULY 12, 2017, 2017 AT 10:00 A.M.**

**BUYER: Robert Bowins, Senior Buyer**  
**PHONE: 410-313-6375 ▪ EMAIL: [rbowins@howardcountymd.gov](mailto:rbowins@howardcountymd.gov)**

---



**HOWARD COUNTY, MARYLAND**

---

**OFFICE OF PURCHASING**

6751 Columbia Gateway Drive, Suite 501, Columbia, MD 21046  
[www.howardcountymd.gov/departments/county-administration/purchasing](http://www.howardcountymd.gov/departments/county-administration/purchasing)



*Formal RFPs and RFP Results are available on our website*

## TABLE OF CONTENTS

### SECTION A – KEY INFORMATION SUMMARY

### SECTION B – PURCHASE ORDER TERMS AND CONDITIONS

### SECTION C – GENERAL CONDITIONS

1. Definitions
2. Performance Bond
3. Reservations
4. Competition
5. Period of Validity
6. Delivery
7. Governing Law
8. Protest
9. Disputes
10. Authority
11. Unit Prices
12. Non-Waiver
13. Patents
14. Maryland Registration
15. Availability of Funds
16. Integration and Modification
17. Non-Assignment of Agreement
18. Agreement
19. Public Information/Proprietary/Confidential Information
20. Cooperative Purchase
21. Award Notification
22. Termination

### SECTION D – SPECIFICATIONS

1. Scope
2. Pre-Proposal Conference
3. Site Visit
4. Inquiries and Addenda
5. Contractor's Qualifications
6. Background Checks and Investigations
7. Agreement Period
8. Price Adjustment
9. Exclusivity
10. Estimated Quantities
11. Insurance
12. Method of Ordering
13. Evaluation of Offers
14. Work Schedule
15. Billing and Payment
16. Technical Specifications

### SECTION E – SUBMISSION REQUIRMENTS

1. Instructions
2. Proposal Documents
3. Electronic and Hard Copies
4. Sample Invoice
5. Exceptions
6. Site Conditions

SECTION F – TECHNICAL PROPOSAL PAGES, PRICE PAGE, CONTRACTOR’S QUALIFICATION  
INFORMATION

SECTION G – AFFIDAVIT

SECTION H – EQUAL BUSINESS OPPORTUNITY PARTICIPATION

SECTION I – WAGE RATE REQUIREMENT FOR SERVICES AGREEMENTS FORM

Exhibit I, Howard County, Maryland, Sample Agreement

Exhibit II, Sample Invoice

Exhibit III, Site Plan and Loading Routes

**IMPORTANT: ADVISE THE ISSUING OFFICE IMMEDIATELY  
IF ANY OF THE ABOVE SECTIONS ARE NOT ENCLOSED IN THIS DOCUMENT.**

**SECTION A****KEY INFORMATION SUMMARY**

RFP Number:	01-2018
RFP Name:	Biosolids Management – Little Patuxent Water Reclamation Plant
Issue Date:	July 5, 2017
Buyer:	Robert Bowins
Pre-Proposal Date:	July 12, 2017 at 10:00 A.M.
Pre-Proposal Location and Registration:	Pre-proposal meeting to be held at the Little Patuxent Water Reclamation Plant, Administration Building, Training Room, 8900 Greenwood Place, Savage, MD 20763. Please register by contacting Ms. Rupa Pandey at <a href="mailto:rpandey@howardcountymd.gov">rpandey@howardcountymd.gov</a> or 410-313-1205.
Questions Due and to Whom:	Questions due no later than 4:00 p.m. on July 14, 2017 Submit questions to: Robert Bowins at <a href="mailto:rbowins@howardcountymd.gov">rbowins@howardcountymd.gov</a> . Questions must be submitted to the Buyer at the email address listed above.
Proposal Due:	July 26, 2017 PRIOR TO 11:00 A.M. EST
Mail/Deliver Proposals to the Issuing Office:	Office of Purchasing 6751 Columbia Gateway Dr., Ste. 501 Columbia, MD 21046 410-313-6370  <b>PLEASE REMEMBER THAT TECHNICAL AND PRICE PROPOSALS ARE TO BE PLACED IN <i>SEPARATE SEALED ENVELOPES</i>.</b>
Agreement Term:	One year with four (4) one-year renewal options
Performance Bond:	Yes, in the amount of \$1,000,000.00
EBO Subcontracting Participation:	10% goal, please refer to Section H, Bid Submittals

MINORITY BUSINESS ENTERPRISES are encouraged to respond to this solicitation. For more information, please contact the Equal Business Opportunity Coordinator at 410-313-3694.

**IMPORTANT NOTICE REGARDING ADDENDA**

**Addenda to solicitations often occur prior to bid opening. It is the potential Contractor's responsibility to visit the Office of Purchasing web site for updates to solicitations.**

[www.howardcountymd.gov/departments/county-administration/purchasing](http://www.howardcountymd.gov/departments/county-administration/purchasing)

**SECTION B****PURCHASE ORDER TERMS AND CONDITIONS**

The following terms and conditions apply to all Purchase Orders issued by Howard County and are applicable to all purchases made as a result of this solicitation.

- 1 No purchase of materials, supplies, equipment, and/or services will be recognized unless made through the Office of Purchasing.
- 2 The County may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice or course of dealing to the contrary.
- 3 The terms and conditions of sale as stated in this Purchase Order govern in the event of conflict with any terms of the Contractor's bid, and are not subject to change by reason of any written or verbal statements by the Contractor or by any terms stated in the Contractor's acknowledgement without prior written authority from the Office of Purchasing.
- 4 If the price is omitted on the Purchase Order, except where the Purchase Order is given in acceptance of quoted prices, it is agreed that Contractor's price will be the lowest prevailing market price and in no event is this Purchase Order to be filled at higher prices than last previously quoted or charged without prior written authority from the Office of Purchasing.
- 5 If requested, the Contractor shall acknowledge the order promptly and provide a delivery date.
- 6 Invoices must show Delivery Address and Purchase Order number, and indicate if it represents partial or complete billing. Separate invoices must be rendered for each Purchase Order. Invoices shall include the following information:
  - 6.1 Contractor's name;
  - 6.2 Address;
  - 6.3 Federal tax identification number;
  - 6.4 Contract number, if applicable (the first two digits are 44XXXXXXXX);
  - 6.5 Purchase Order number (the first digit is 2XXXXXXXX);
  - 6.6 Contract line number, if applicable;
  - 6.7 Unit price and extended price (if applicable, the unit price must match a line on the Contract); and
  - 6.8 Description of goods provided and/or services performed.
- 7 The County has the right to refuse to make payment on any invoice unless and until verification of receipt by the County can be determined. The County's payment for any material shall not constitute acceptance of the material or a waiver of any of the County's rights.
- 8 No freight/delivery/fuel charges will be paid by the County unless specifically provided for in the Purchase Order.
- 9 The County will not pay for packaging, boxing or cartage. Damage resulting from improperly packaged material will be charged to the Contractor.
- 10 The County reserves the right to cancel this Purchase Order or, any part thereof, without obligation, if delivery is not made or services completed at the time(s) specified.
- 11 This Purchase Order shall be governed and construed in accordance with the law of the State of Maryland without regard to any choice of law principles.
- 12 All deliveries and services furnished under this Purchase Order must be of the quality specified or in the event no quality is specified, must be the best of their respective kinds, and will be subject to inspection and approval of the County within a reasonable time after delivery of goods or completion of services. When manufacturing specifications are referred to in this Purchase Order, such specifications shall be deemed to be an integral part hereof as if duly set out herein. Goods and services shall be replaced at no additional charge to the County if they prove to be defective and/or not in accordance with specifications. Rejected materials shall be returned at the risk and expense of the Contractor. If the County does not desire replacement, the Contractor shall issue a full credit.
- 13 Requirement as to Materials, Contractor's Responsibilities and Warranties:
  - 13.1 The Contractor warrants and agrees that all materials supplied hereunder shall be manufactured and produced in compliance with the laws, regulations, codes, terms, standards and/or requirements of all Federal, State and local authorities and all other authorities having jurisdiction, and that performance of this Purchase Order shall be in accordance with the above laws, regulations, codes, terms, standards, and/or requirements, and agrees, upon request, to furnish the County a certificate of compliance in such forms as the County may require.
  - 13.2 The Contractor warrants that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the goods shipped or ordered and Contractor agrees to indemnify and hold the County harmless from any and all liability, loss or expense occasioned by such a violation.
- 14 The quantity of materials, and/or services, must not be exceeded without prior written authority from the Office of Purchasing.
- 15 Substitutions are not allowed without prior written authority from the Office of Purchasing.

- 16 If required, a sufficient number of shop drawings and/or catalog data shall be furnished to the County within 15 days (unless otherwise specified) for necessary approval.
- 17 In the event any article sold and delivered hereunder shall be defective in any respect whatsoever, the Contractor will indemnify and save harmless the County from all losses or expenses by reason of all accidents, injuries or damages to persons or property resulting from the use of such article or which are contributed to by said defective condition.
- 18 The Contractor shall indemnify and hold harmless the County, its employees, agents and officials from any and all claims, losses or expenses resulting from any accidents, injuries or damages to persons or properties, suits or demands including reasonable attorney fees which may be made against the County, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Purchase Order by the Contractor or anyone under agreement with the Contractor to perform duties under this Purchase Order. The Contractor shall not be responsible for acts of negligence or willful misconduct committed by the County, its employees, agents and officials. Any property or work to be provided by the Contractor under this Purchase Order will remain at the Contractor's risk until written acceptance by the County; and the Contractor will replace, at the Contractor's expense, all property or work damaged or destroyed by any cause whatsoever.
- 19 Liability for Damage: If this Purchase Order calls for work to be performed upon property owned or controlled by the County it is understood and agreed that:
- 19.1 Mechanic's Liens: The Contractor will keep the premises and work free and clear of all mechanic's liens, and furnish the County certificate and waiver as provided by law.
- 19.2 Property and Casualty Losses: The work will remain at the Contractor's risk prior to written acceptance by the County and the Contractor will replace at its own expense all work damaged or destroyed by fire, force or violence of the elements or any cause whatsoever.
- 19.3 Injury to Contractor's Personnel: The Contractor understands and agrees that they are the sole employer of all persons employed by Contractor to perform services under this Purchase Order and agrees on behalf of itself and its workers' compensation insurer that the County is not a dual employer of such personnel. If Contractor is hiring independent contractors or subcontractors to perform services under this Purchase Order, Contractor shall assure that all such persons are properly covered under Maryland workers' compensation law and will indemnify, save harmless and defend the County from all workers' compensation claims filed by such persons against the County.
- 19.4 Workers' Compensation Insurance: During the term of this Purchase Order, the Contractor will provide workers' compensation insurance in compliance with Maryland law for its employees and shall be responsible to verify workers' compensation coverage for all independent contractors and subcontractors. Contractor shall indemnify the County for any uninsured losses relating to contractual services under this Purchase Order and subsequent amendments.
- 20 Bankruptcy: In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the Contractor including any proceedings under the Chandler Act, or in the event of the appointment, with or without the Contractor's consent, of an assignee for the benefit of creditors or of a receiver then the County shall be entitled to cancel any unfilled part of this Purchase Order without any liability whatsoever.
- 21 Equal Employment Opportunity: The County requires that the Contractor not discriminate against any employee or applicant for employment because of race, creed, religion, physical or mental handicap, color, sex, national origin, age, occupation, marital status, political expression, gender identity/expression, sexual orientation or personal appearance. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated fairly and equally during employment with regard to the above. The Contractor warrants that, within the previous 12 months, it has not engaged in unlawful employment practices as set forth in Section 12.208 of the Howard County Code, Section 19 of Article 49B of the annotated Code of Maryland or Sections 703 and 704 of Title VII of the Civil Rights Act of 1964.
- 22 Material Safety Data Sheet (MSDS): If the work to be performed under this Purchase Order requires the use of any product that contains any ingredient that could be hazardous or injurious to a person's health, a MSDS must be provided to the Office of Purchasing, 6751 Columbia Gateway Drive, Suite 501, Columbia, Maryland 21046.
- 23 Termination
- 23.1 Termination for Convenience: The County may terminate this Purchase Order, in whole or in part, if the County determines that such termination is in the best interest of the County, without showing cause, upon giving at least 30 days written notice to the Contractor. The County shall pay all reasonable costs incurred by the Contractor up to the date of termination. However, in no event shall the Contractor be paid an amount which exceeds the price bid for the work performed. The Contractor shall not be reimbursed for any profits which may have been anticipated but which have not been earned up to the date of termination.
- 23.2 Termination for Default: When the Contractor has not performed or has unsatisfactorily performed one or more material terms of the Purchase Order, the County may terminate the Purchase Order for default. Upon termination for default, payment may be withheld at the discretion of the County. Failure on the part of the Contractor to fulfill the contractual obligations shall be considered just cause for termination of the Purchase Order. If the damages exceed the undisbursed sums available for compensation, the County shall not be obligated to make any further disbursements hereunder. The Contractor will be paid for work satisfactorily performed prior to termination less any excess costs incurred by the County in reprocurring and completing the work.

## SECTION C

### GENERAL CONDITIONS

#### 1 DEFINITIONS:

- 1.1 Addenda – Formal alteration of a solicitation or Agreement in writing (When applicable, Addenda are available on the Office of Purchasing website.)
- 1.2 Alternate Bids – A second bid for a single item that intentionally offers a substitute product or service that varies from the stated specifications
- 1.3 Buyer – The County’s Purchasing Representative for the resulting Agreement
- 1.4 Agreement – The Request for Proposal documents and any addenda, the Contractor’s response to this solicitation, **an executed Sample Agreement**, and subsequent Purchase Orders
- 1.5 County – Howard County, Maryland
- 1.6 County Purchasing Agent – The Chief Administrative Officer for the County
- 1.7 Contractor – Any offeror; most often the successful offeror
- 1.8 Designee – Specifically appointed alternate signatory or decision maker
- 1.9 Equal Business Opportunity (EBO) – The County’s minority business enterprise program
- 1.10 Issuing Office – The Howard County Office of Purchasing
- 1.11 Offeror – Any entity that submits a response to this solicitation
- 1.12 Proposal – All information submitted by the Contractor in response to this solicitation
- 1.13 Purchase Order – The document by which the Contractor receives formal notification to perform work or deliver goods
- 1.14 Request for Proposal (RFP) – All documents identified in the Table of Contents, including any addenda
- 1.15 Solicitation – The Request for Proposal
- 1.16 User Agency – County department or office for which goods and/or services are being purchased
- 1.17 Management of Biosolids – all necessary actions required to accept, process, transport, distribute and beneficially reuse or dispose in accordance with all applicable laws and regulations.

- 2 PERFORMANCE and PAYMENT BOND: A performance and payment bond for \$1,000,000.00 shall be required of the Contractor within ten days after award notification. The bonds shall be issued by a surety company licensed to do business in Maryland.

#### 3 RESERVATIONS:

- 3.1 The County Purchasing Agent or Designee reserves the right to reject any or all proposals or parts of proposals when, in the County Purchasing Agent’s or Designee’s reasoned judgment, the public interest will be served thereby.
- 3.2 The County Purchasing Agent or Designee, with the approval of the County Executive, may waive formalities or technicalities in proposals as the interest of the County may require.
- 3.3 The County Purchasing Agent or Designee reserves the right to increase or decrease the quantities to be purchased at the prices set forth in the proposal. The quantity intended to be purchased and the period and percentage amount of any such reservation will be stated in the solicitation.
- 3.4 The County Purchasing Agent or Designee reserves the right to award Agreements or place orders on a lump sum or individual item basis, or such combination as shall, in the County Purchasing Agent’s or Designee’s judgment, be in the best interest of the County.
- 3.5 The County Purchasing Agent or Designee may waive minor differences in specifications provided these differences do not violate the specification intent nor materially affect the operation for which the item or items are being purchased, nor increase estimated maintenance and repair cost to the County.
- 3.6 The County Purchasing Agent or Designee may reject any proposal which shows any omission, irregularity, alteration of forms, additions not called for, conditional or unconditional unresponsiveness, or proposals obviously unbalanced.

- 4      **COMPETITION:**
- 4.1      The name of any manufacturer, trade name, or manufacturer or vendor catalog number mentioned in this solicitation is for the purpose of designating a minimum standard of quality and type. Such references are not intended to be restrictive. Bids will be considered for any brand that meets or exceeds the quality of the specifications unless otherwise stated in the solicitation.
- 4.2      A Contractor may offer only one price on each item. Submission by a single Contractor of more than one price for a single item shall be sufficient cause for rejection of all prices for that item submitted by the Contractor. Alternate bids are prohibited and will be rejected.
- 5      **PERIOD OF VALIDITY:** Unless otherwise specified, all formal proposals submitted shall be irrevocable for 120 days following the proposal opening date, unless the Contractor, upon request of the County Purchasing Agent or Designee, agrees to an extension. Bids may not be withdrawn during this period.
- 6      **DELIVERY:**
- 6.1      Contractors shall guarantee delivery of services in accordance with such delivery schedule as may be provided in the solicitation.
- 6.2      The County Purchasing Agent or Designee reserves the right to charge the Contractor for each day the services are not delivered in accordance with the schedule and will be charged for actual charges incurred. The actual charges applied may be invoked at the discretion of the County Purchasing Agent or Designee and said sum to be deducted from the final payment, or charged back to the Contractor.
- 6.3      The County Purchasing Agent or Designee reserves the right to procure the services elsewhere on the open market if delivery is not made as specified, in which event, the extra cost of procuring the services may be charged against the Contractor and deducted from any monies due or which may become due.
- 7      **GOVERNING LAW:**
- 7.1      This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland without regard to any choice of law principles that would dictate the laws of any other jurisdiction. The parties agree that the exclusive venue for any and all actions related hereto shall be the appropriate Federal or State court located within the State of Maryland.
- 7.2      The laws of Maryland and Howard County shall govern the resolution of any issue arising in connection with the contract, including, but not limited to, all questions on the validity of the contract, the capacity of the parties to enter therein, any modification or amendment thereto, and the rights and obligations of the parties hereunder.
- 8      **PROTEST:** Any protest concerning the award of an Agreement shall be decided by the County. Protests shall be made in writing to the Issuing Office and shall be filed within ten days of issuance of award notification. A protest is considered filed when received by the Issuing Office. The written protest shall include the name and address of the protestor, identification of the procurement, a statement of the specific reason for the protest and supporting exhibits. The Issuing Office will respond to the written protest within ten days. The County's decision is final.
- 9      **DISPUTES:** In cases of disputes as to whether or not an item or service quoted or delivered meets specifications, the decision of the County Purchasing Agent or Designee shall be final and binding on all parties. All other disputes arising under or related to the Agreement will be resolved, to the extent possible, by negotiation and settlement between the parties. Pending resolution, the Contractor shall proceed diligently with performance of the Agreement unless otherwise directed in writing.
- 10      **AUTHORITY:** Solicitations are issued pursuant and subject to the provisions of Article VIII, Howard County Charter; Sections 4.100 through 4.123, Howard County Code, 2003; and the rules and regulations as prescribed by the County.

- 11 **UNIT PRICES:** Unless the Contractor clearly shows that it is the intent that a reduced total price is being offered on the basis of receiving an award of all items covered by the total, any totals should be the actual sum of the extension of unit prices. Otherwise, in the event of any discrepancy between a unit price(s), extended price(s), and/or total price(s), unit prices will govern and the bid will be refigured accordingly.
- 12 **NON-WAIVER:** Any waiver of any breach of covenants herein contained to be kept and performed by the Contractor shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the County from declaring a forfeiture for any succeeding breach either of the same condition of covenant or otherwise.
- 13 **PATENTS:** If applicable, the Contractor shall defend any suit or proceeding brought against the County so far as based on a claim on any equipment, or on any part thereof, furnished under this Agreement which constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at the Contractor's expense) for the defense of same, and the Contractor shall pay all damages and costs awarded therein against the County. In case said equipment or any part thereof, in such suit is held to constitute infringement and the use of said equipment or part if enjoined, the Contractor shall, at its own expense, either procure for the County the right to continue using said equipment or part, or replace same with non-infringing equipment or part, or modify so that it becomes non-infringing.
- 14 **MARYLAND REGISTRATION:** Contractors must be registered to do business in, and must be in good standing in, the State of Maryland. Contractors not registered must obtain registration information from the Maryland Department of Assessments and Taxation website at: [www.dat.state.md.us/](http://www.dat.state.md.us/) or by calling 410-767-1184 or Toll Free 888-246-5941.
- 15 **AVAILABILITY OF FUNDS:** The contractual obligation of the County under this Agreement is contingent upon the availability of appropriated funds from which payment for this Agreement can be made.
- 16 **INTEGRATION AND MODIFICATION:** This solicitation, the Contractor's response to this solicitation, subsequent Purchase Order(s), and, if applicable, the legal Agreement represents the entire understanding between the parties. Any additions or modifications shall only be made in writing and executed by both parties.
- 17 **NON-ASSIGNMENT OF AGREEMENT:** Neither the County nor the Contractor shall assign, sublet or transfer its interest or obligations under the resulting Agreement to any third party, without the written consent of the other. Nothing herein shall be construed to create any personal or individual liability upon any employee, officer or elected official of the County, nor shall the resulting Agreement be construed to create any rights hereunder in any person or entity other than the parties to this Agreement.
- 18 **AGREEMENT:**
- 18.1 The County and Contractor must execute an Agreement resulting from the award of this solicitation. This process typically takes approximately three weeks from the date the successful Contractor is identified. In order to expedite this process, a Sample Agreement is attached for review as part of this solicitation. Exceptions, if any, to the County's Sample Agreement (Exhibit I) must be noted in the proposal to be considered during evaluation. The County reserves the right to accept or reject exceptions in its sole discretion.
- 18.2 Do not fill in or sign the Sample Agreement attached as Exhibit I. The County will prepare an Agreement specific to this solicitation for execution by the successful Contractor.
- 19 **PUBLIC INFORMATION/PROPRIETARY/CONFIDENTIAL INFORMATION:**
- 19.1 The County operates under a public information law, which permits access to most records and documents.
- 19.2 Proposals will be available for public inspection after the award announcement, except to the extent that a Contractor designates trade secrets or other proprietary data to be confidential. Material designated as confidential must be readily separable from the remainder of the proposal to facilitate public inspection of the nonconfidential portion of the proposal. A Contractor's designation of material as confidential will not necessarily be conclusive, and the Contractor may be required to provide justification why such

material should not be disclosed, on request, under the Maryland Access to Public Records Act, State Government Article, Sections 10-611 through 10-628, of the Annotated Code of Maryland.

20 COOPERATIVE PURCHASE:

- 20.1 The County reserves the right to extend all of the terms, conditions, specifications, and unit or other prices of any Agreement resulting from this solicitation to any and all public bodies, subdivisions, schools districts, community colleges, colleges, and universities including non-public schools. This is conditioned upon mutual agreement of all parties pursuant to special requirements, which may be appended thereto. The Contractor agrees to notify the issuing body of those entities that wish to use any Agreement resulting from this solicitation and will also provide usage information, which may be requested.
- 20.2 The County assumes no authority, liability or obligation, on behalf of any other public or non-public entity that may use any Agreement resulting from this solicitation. All purchases and payment transactions will be made directly between the Contractor and the requesting entity. Any exceptions to this requirement must be specifically noted in the bid response.

21 AWARD NOTIFICATION:

- 21.1 Award notification will be by U.S. Mail, e-mail or fax or a combination thereof.
- 21.2 The awarded Contractor(s) will be required to return an Insurance Certificate naming. "Howard County, Maryland, its officials, employees, agents and volunteers" as Certificate Holder and as Additional Insured, the executed Agreement\* the completed EBO Schedule of Participation and a Maryland Registration Certificate of Good Standing.

**\* As Offerors have had an opportunity to note Exceptions to the Agreement with their proposal submission, it is anticipated that execution of the Agreement will require minimal time. PLEASE BE SURE TO READ THE SAMPLE AGREEMENT, EXHIBIT I. PRIOR TO SUBMISSION OF YOUR PROPOSAL.**

22 TERMINATION:

- 22.1 Termination for Convenience: The County may terminate this contract, in whole or in part, if the County determines that such termination is in the best interest of the County. The County shall pay all reasonable costs incurred by the Contractor up to the date of termination. However, in no event shall the Contractor be paid an amount which exceeds the price bid for the work performed. The Contractor shall not be reimbursed for any profits which may have been anticipated but which have not been earned up to the date of termination.
- 22.2 Termination for Default: When the Contractor has not performed or has unsatisfactorily performed one or more material terms of the contract, the County may terminate the Purchase Order for default. Upon termination for default, payment may be withheld at the discretion of the County. Failure on the part of the Contractor to fulfill the contractual obligations shall be considered just cause for termination of the contract. If the damages exceed the undisbursed sums available for compensation, the County shall not be obligated to make any further disbursements hereunder. The Contractor will be paid for work satisfactorily performed prior to termination less any excess costs incurred by the County in reprocurring and completing the work.

## SECTION D

### SPECIFICATIONS

- 1 SCOPE: Howard County, Maryland, (the “County”), seeks a biosolids management firm (the “Contractor”), to accept, process with its own equipment as necessary, transport, and distribute biosolids from the Little Patuxent Water Reclamation Plant (LPWRP), for beneficial uses, preferably in Maryland, or dispose of biosolids as a last resort, all in accord with regulatory standards.
  
- 2 PRE-PROPOSAL CONFERENCE:
  - 2.1 A pre-proposal conference will be held in the training room of the Administration Building at the Little Patuxent Water Reclamation Plant, 8900 Greenwood Place, Savage, MD 20763 on the date and time specified in Section A to discuss objectives and answer questions relating to this solicitation. Contractor’s attendance is not required but is strongly encouraged. Additionally, attendance may facilitate the Contractor’s understanding and ability to meet the County’s Equal Business Opportunity goals as outlined in Section H.
  - 2.2 It is strongly recommended that Contractors read the solicitation prior to attending the conference and bring a copy to the conference.
  - 2.3 In order to assure adequate seating at the pre-proposal conference, please confirm attendance by emailing Rupa Pandey at [rpandey@howardcountymd.gov](mailto:rpandey@howardcountymd.gov) and referencing this solicitation and number.
  - 2.4 If there is a need for language interpretation and/or other special accommodations, please advise Heather Streib at [hstreib@howardcountymd.gov](mailto:hstreib@howardcountymd.gov) so that reasonable efforts may be made to provide special accommodations.
  
- 3 SITE VISIT: Each Contractor shall completely satisfy themselves as to the exact nature and existing conditions of Little Patuxent Water Reclamation Plant and Biosolids Management Operations and requirements of the specifications for extent and quality of the work to be performed. Failure to do so shall not relieve the Contractor of its obligation to carry out the provisions of the Agreement.
  
- 4 INQUIRIES AND ADDENDA:
  - 4.1 The Buyer in the Issuing Office is the sole point of contact for this solicitation. Questions must be addressed in writing to the Buyer and delivered no later than the date specified.
  - 4.2 Addenda to solicitations often occur prior to the proposal opening, sometimes within a few hours of the opening. It is the potential Contractor’s responsibility to visit the Office of Purchasing website at [www.howardcountymd.gov/departments/county-administration/purchasing](http://www.howardcountymd.gov/departments/county-administration/purchasing) to obtain Addenda. Addenda, when issued, must be acknowledged in the proposal by signing and returning all addenda with the proposal. Addenda must also be acknowledged in the space provided on the Technical Proposal Page No. 2.
  
- 5 CONTRACTOR’S QUALIFICATIONS:
  - 5.1 Contractors must be engaged in biosolids management and must have been actively engaged in accepting, processing and distributing biosolids for beneficial use for a period of no less than 5 years. The experience of owner(s) may be imputed to a newly formed company/contractor provided the owner(s) has/have at least 5 years of demonstrated experience in biosolids management and meet the criteria set forth herein.
  - 5.2 The County reserves the right to inspect the Contractor's equipment and permits to perform such investigations as may be deemed necessary by the County to ensure that competent personnel and management will be utilized in the performance of the Agreement.

- 5.3 In accordance with Howard County Code Sec. 4.117 (a) (4), the quality of performance of previous contracts or services shall be considered in determining the award. Quality of performance may be determined through contracts or services provided to the County or to other entities. Quality of performance to other entities will be determined from reference checks when references are required. The determination of quality performance includes the Contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction and the Contractor's businesslike concern for the interests of the customer. The County reserves the right to reject any bid deemed not responsible or non-responsive.
- 5.4 Contractor shall also meet all necessary qualification requirements detailed in the Technical Specifications sections of this solicitation.

## 6 BACKGROUND CHECKS AND INVESTIGATIONS

- 6.1 If a Contractors' employees are on-site in County buildings working without a County escort each employee of the Contractor shall agree to a background check or investigation consisting of national criminal database search covering misdemeanors and felonies and the release of that information to the County in the event that it is required.
- 6.2 The Contractor shall assume the cost to have background checks done for each employee assigned to each facility. The County may bill the Contractor \$100 for each standard background check. Public safety buildings require a higher level of security and an in-depth background checks referred to as "investigations". The County may bill the Contractor \$250 for each in-depth background investigation. This fee, when billed to the Contractor, shall be payable to the County prior to the check or investigation being conducted.
- 6.3 The background checks or investigations shall include all employees, new employees, subcontractors and replacement employees to be done prior to assignment of a building.
- 6.4 The Contractor shall not assign any individual convicted of the following offenses which shall include, but are not limited to: Abduction, Homicide, Rape, Aggravated Assault, Sex Offender, Assault with Intent to Murder, or Assault with Intent to Rob.
- 6.5 The Contractor shall not assign any individual convicted, or having incomplete probation for the following offenses which shall include, but are not limited to: Burglary, Breaking and Entering, Carrying or Wearing a Weapon, Destruction of Property, Possession of a Controlled Dangerous Substance with Intent to Distribute, Explosives, Kidnapping, Theft/Larceny, Maiming, Manslaughter, Sexual Assault, Hate Crimes, Robbery, and Distribution of a Controlled Substance.
- 6.6 The Contractor reserves the right to seek exception to the above guidelines governing acceptability for assignment to the facility by providing documented specifics pertaining to convictions of the employee in question. The County will, at its sole discretion, accept or reject the requested exception.

- 7 **AGREEMENT PERIOD:** The Agreement period shall be for one year commencing on or about December 1, 2017 after approval and proper execution of the Agreement documents, with a renewal option for four (4) additional years in one-year increments, exercisable at the sole discretion of the County.

## 8 PRICE ADJUSTMENT:

- 8.1 Prices offered shall be firm against any increase for one (1) year from the effective date of this Agreement. Prior to the commencement of subsequent renewal periods, it shall be the Contractor's responsibility to notify the Issuing Office in advance of any requested price changes.
- 8.2 Requests for price adjustments shall be submitted to the Issuing Office, not the User Agency.
- 8.3 The County will entertain requests for escalation in accordance with the current Consumer Price Index at the time of the request or up to a maximum 5% increase on the current pricing, whichever is lower. *(For purposes of this section, "Consumer Price Index" shall be the Consumer Price Index-All Urban Consumers (CPI-U), Washington-Baltimore, DC-MD-VA-WV, All Items, Not*

*Seasonally Adjusted, as published by the United States Department of Labor, Bureau of Labor Statistics.*) The County reserves the right to grant or deny the request for a price increase and will do so in writing. If the price increase is granted, the price increase will be effective upon written approval and will remain firm through the renewal period.

- 8.4 If a price increase is requested following Agreement renewal and it has been longer than one year since the last increase, the County may entertain a request for escalation if it is in the County's best interest. If the price increase is granted, the price increase will be effective upon approval and will remain firm through the renewal period, or for one year, at the County's sole discretion.
- 9 EXCLUSIVITY:
- 9.1 The County is obligated during the period stipulated to purchase all of its normal requirements from the Contractor and the Contractor shall be obligated to furnish the services as stated.
- 9.2 Should a need arise for supplies or services which are not available in the timeframe required by the County, the County reserves the right to secure services from other sources to meet its immediate needs without prejudice of the Agreement.
- 10 ESTIMATED QUANTITIES: The estimated annual quantities stated are provided as a general guide for bidding and are not guaranteed. Actual quantities may be more or less than those estimated.
- 11 INSURANCE: The Contractor will be required to purchase and maintain during the life of the Agreement, including any subsequent renewal terms, insurance as described in Schedule 7 of the attached Sample Agreement, Exhibit I.
- 11.1 The Contractor shall assure that all subcontractors or independent contractors performing services in accordance with this solicitation carry identical insurance coverage as required of the Contractor, either individually or as an Additional Insured on the policies of the Contractor. Exceptions may be made only with the approval of the County. The Contractor shall indemnify the County for any uninsured losses relating to contractual services involving subcontractors, including workers' compensation claims.
- 11.2 The Contractor shall provide the County with Certificates of Insurance within ten days of bid award notification, evidencing the coverages required above. Such certificates shall provide that the County be given at least 60 days prior written notice of any cancellation of, intention to not renew, or material change in such coverage. The Contractor must provide Certificates of Insurance before commencing work in connection with the Agreement.
- 11.3 The providing of any insurance required herein does not relieve the Contractor of any of the responsibilities or obligations assumed by the Contractor in the Agreement awarded or for which the Contractor may be liable by law or otherwise.
- 11.4 Failure to provide and continue to enforce such insurance as required above shall be deemed a material breach of the Agreement and shall operate as an immediate termination thereof.
- 11.5 Failure to comply with this requirement at any time during the initial term and any subsequent renewals may be sufficient cause for termination for default.
- 12 METHOD OF ORDERING:
- 12.1 Purchase Orders will be issued from time to time for such quantities as may be required by the County. Purchase Orders issued against the Agreement, even if not completed within the term of the Agreement, shall continue to be bound by the terms and conditions until completion.
- 12.2 Small purchases may also be made by the County's procurement card (currently Visa). The Contractor agrees to accept the card for such quantities as may be required by the County. Contractors are prohibited from charging additional fees over and above their bid prices to process payments on procurement cards.

## 13 EVALUATION OF OFFERS:

- 13.1 The County intends to make award to the responsible Contractor whose proposal represents the best value to the County. Proposals will be evaluated in two phases; the first based on the technical and price submittals and the second on the oral discussions.
- 13.2 The first phase will be evaluated based on the following weighted evaluation criteria listed in order of importance:
- 13.2.1 Experience and technical competence of the firm
  - 13.2.2 Qualifications and technical competence of the staff based on résumés.
  - 13.2.3 Safety, Emergency, Spill, and Clean-up Plans
  - 13.2.4 Proposed processing plan for managing biosolids
  - 13.2.5 Proposed distribution plan for managing biosolids (preference for local sites and diversity in outlets)
  - 13.2.6 Proposed Schedule
  - 13.2.7 Identified risks associated with this project
  - 13.2.8 Local business and/or local resources
  - 13.2.9 Completeness of proposal
  - 13.2.10 Proposed Price
- 13.3 After identifying the short list of the most qualified Contractor(s) based on the evaluation criteria, representative(s) will be required to clarify their proposals through presentations and/or oral discussions.
- 13.4 The County may enter into negotiations with the Contractors and invite best and final offers as deemed to be in the best interest of the County. Negotiations may be in the form of face-to-face, telephone, facsimile, email or written communications, or any combination thereof, at the County's sole discretion.
- 13.5 Contractors are strongly advised not to prepare their proposal submissions based on any assumption or understanding that negotiations will take place. Contractors are advised to respond to this solicitation fully and with forthrightness at the time of submission.
- 13.6 Following the submittals of proposals, Contractors are strongly cautioned not to contact elected officials or members of the evaluation team regarding the selection process. Inappropriate efforts to lobby or influence individuals, or Contractors involved in this selection may result in dismissal from further consideration, at the County's sole discretion.

14 **WORK SCHEDULE:** The expected typical work hours are from 7am – 12am M-F, 7am -3pm Saturday and Sunday. Upon request by the County, the Contractor shall be available to manage biosolids 24 hours a day, 365 days per year upon prior notice from the County for the term of the contract.

## 15 BILLING AND PAYMENT:

- 15.1 The Contractor shall submit separate invoices for each Purchase Order issued. Invoices shall be sent to Bureau of Utilities, Little Patuxent Water Reclamation Plant, 8900 Greenwood Place, Savage, MD 20763. Invoices in the proper form and approved by the County shall be paid by the County within 30 days of receipt. Invoices without the necessary information may be returned for correction prior to payment.
- 15.2 Each invoice shall include the following information:
- 15.2.1 Contractor's name;
  - 15.2.2 Address;
  - 15.2.3 Federal tax identification number;
  - 15.2.4 Contract number, if applicable (i.e., 44XXXXXXXXX);
  - 15.2.5 Purchase Order number (i.e., 2XXXXXXXXXX);

- 15.2.6 Contract line number;
  - 15.2.7 Unit price and extended price (unit price must match a contract line); and
  - 15.2.8 Weight tickets in U.S. tons.
  - 15.2.9 Final destination information, to include land application sites and quantities applied to each, landfill disposal facilities and quantities disposed at each, and outlets and quantities distributed to each for any distribution of Class A or B or unclassified biosolids.
- 15.3 The County reserves the right to make payments via electronic funds transfer (a.k.a. ACH) on Agreements for which this payment vehicle is appropriate.
- 15.4 Weight tickets signed by the Contractor's personnel shall accompany invoice.
- 15.5 Payment shall be made upon receipt of proper invoice from Contractor and authorized by the County.
- 15.6 All amounts, costs, or prices referred to herein pursuant to this Agreement shall be United States of America currency.
- 15.7 Please provide a Sample Invoice that complies with paragraph "Billing and Payment" with response. See Exhibit II for a Sample Invoice.
- 15.8 The proper form of County invoices requires that the necessary information be included on all invoices. Invoices without the necessary information may be returned for correction prior to payment. The County reserves the right to approve invoices, in its sole discretion, and to request such detail and additional information as the County, in its discretion deems appropriate.
- 16 TECHNICAL SPECIFICATIONS:
- 16.1 Background:
- 16.1.1 The County is currently upgrading the Biosolids Processing Facilities at the Little Patuxent Water Reclamation Plant, Capital Project S-6295 and seek interim biosolids management services until the new facilities are fully operational.
  - 16.1.2 The existing lime stabilization process will be decommissioned and replaced with improved dewatering, improved solids storage, improved odor control, new anaerobic digestion, new phosphorus precipitation, new de-ammonification, and direct heat drying with belt dryers.
  - 16.1.3 Construction began in February 2017 on the first phase of the project which includes all improvements less the new dryer systems.
  - 16.1.4 The County anticipates award of the second phase of the construction project including installation of a new biosolids dryer facility in November of 2017.
  - 16.1.5 The County is currently contracted with Synagro Technologies until November 30, 2017 for operations of the existing lime stabilization system and distribution for beneficial use of Class A and/or Class B biosolids. The existing contract may be extended for a minimum of 1 month and maximum of 3 months as may be needed to accommodate the existing construction project and/or prevent any lapse between the current contract and the new contract which will result from this solicitation.
  - 16.1.6 During the contract term associated with this RFP, the awarded Contractor will be responsible for accepting all biosolids produced at the Plant and processing the biosolids as necessary using its own equipment and materials (onsite or offsite), transporting, and distributing for beneficial use all biosolids. The Contractor may dispose the biosolids in properly approved solid waste landfills but only as a last resort and only with prior written approval from the County.
  - 16.1.7 The County currently has Class A and Class B Sewage Sludge Utilization (S.S.U.) permits approved by Maryland Department of the Environment (MDE).

- 16.1.8 MDE has tentatively agreed to modify the existing Class A and/or B S.S.U. permit(s) as necessary to accommodate the proposed conditions during the contract term.
- 16.1.9 It is the intent of the County to work with MDE and the selected proposer to modify the existing Class A and/or B S.S.U. permit as necessary for the contract term to accommodate any onsite biosolids stabilization which may be proposed by the Contractor and establish a new anaerobically digested Class B S.S.U. permit for use after anaerobic digestion is operational.
- 16.2 The County will guarantee the following biosolids production within plus or minus 20% of the estimated quantities:
- 16.2.1 December 1, 2017 through November 30, 2018: 34,000 wet tons of dewatered, unstabilized biosolids at approximately 18-22% solids concentration.
- 16.2.2 December 1, 2018 through November 30, 2019: 21,000 wet tons of anaerobically digested biosolids at approximately 20-25% solids concentration.
- 16.2.3 December 1, 2019 through May 30, 2020: 10,500 wet tons of anaerobically digested biosolids at approximately 20-25% solids concentration.
- 16.2.4 May 20, 2020 through November 30, 2020: 2500 tons of anaerobically digested and dried biosolids at approximately 92% solids concentration.
- 16.3 The County cannot guarantee the final two years of the contract period, but provides the following as our best estimate of biosolid production during this two year period:
- 16.3.1 December 1, 2020 through November 30, 2022: 10,000 tons of anaerobically digested and dried biosolids at approximately 92% solids concentration.
- 16.4 The Contractor is responsible for providing all equipment necessary for accepting, processing, transporting and distributing or disposing of the biosolids. It is the Contractor's sole responsibility to meet all regulatory requirements for the management, transportation and end use of the biosolids, including without limitation, Federal Regulations 40 CFR PART 503 and state regulations as detailed in Code of Maryland regulations (COMAR) Section 26.04.06, et al. The biosolids will become the sole property of the Contractor upon acceptance at the plant and the Contractor shall indemnify the County for any claims related to the subsequent use or disposal of the biosolids.
- 16.5 The Plant site, where onsite stabilization may take place, is a site under construction and space is very limited. It is strongly recommended that the bidders tour this site. Tours will be conducted by appointment only. Appointments may be arranged with the Project Manager, Ms. Rupa Pandey, 410-313-1205 and may be scheduled between 9:00 a.m. and 3:00 p.m. Monday through Friday excluding holidays.
- 16.6 Onsite storage of more than two trailers in the area designated to the Contractor (see Exhibit III) is not permitted due to construction activities. The County will entertain storage alternatives for equipment elsewhere on the Plant property or some other County property.
- 16.7 The County will provide the conveyors to convey the solids outside of the building. See Exhibit III for conveyor details, dedicated staging area, site plan, and possible loading routes.
- 16.8 The County will operate dewatering centrifuges and conveyors. Hours of operation are typically from 7:00 a.m. to 12:00 a.m. Monday through Friday and 7:00 a.m. to 3:00 p.m. Saturday and Sunday. The Contractor is responsible for accepting solids on a continuous basis so as not to cause disruption of County's dewatering operations. Contractor must be able to accept the biosolids directly from the conveyor.
- 16.9 Historically, the biosolids have met the pollutant concentrations for heavy metals in accordance with 40 CFR 503.13 (b)(3) (EPA's "PC" biosolids designation) and the Maryland Department of the

Environment's (MDE) standards for heavy metals and PCB's as specified in Code of Maryland Regulations (COMAR) 26.04.06.05(B)3. Based upon historical data, the County expects to remain within permissible limits for heavy metals and PCB's even after anaerobic digestion is in service.

- 16.10 The LPWRP is a secure facility and access is through a front gate with access cards. The County will assign the selected Contractor access cards.
- 16.11 The County owns and will maintain an onsite truck scale. It is the Contractor's responsibility to weigh in and weigh out and provide the County with weigh tickets for billing purposes.
- 16.12 Any onsite equipment provided by the Contractor shall be installed, owned, operated, and maintained by the Contractor. The County will provide required electrical service to the site allocated to the Contractor for Contractor's equipment. The County will coordinate with the Contractor to provide necessary Motor Control Center (MCC), disconnects, utility water, and sanitary sewer for Contractor's equipment and sanitary facilities for personnel. It is the Contractor's responsibility to provide connection between the County service and the Contractor's equipment. The County will not require compensation for electrical usage by Contractor's equipment.
- 16.13 Contractor shall provide monthly reports detailing final distribution and utilization locations.
- 16.14 Contractor is responsible for all laboratory testing and reporting requirements to comply with biosolids utilization permit and applicable regulations.
- 16.15 Contractor shall provide the County with a detailed plan on how they will accomplish the proposed services. See SECTION E for submission requirements.

## SECTION E

### SUBMISSION REQUIREMENTS

- 1 INSTRUCTIONS:
  - 1.1 All proposals must be clearly identified on the front of the envelope or top of the carton with the solicitation number, title of the solicitation and the due date and time. TECHNICAL AND PRICE PROPOSALS SHALL BE IN SEPARATE, SEALED ENVELOPES.
  - 1.2 All proposals must be signed by an authorized officer or agent of the Contractor submitting the proposal and delivered in sealed envelopes or cartons to the Issuing Office prior to the time and date indicated. Proposals received after the time and date indicated will not be accepted or considered.
  - 1.3 The submission of a proposal shall be considered an agreement to all the terms, conditions, and specifications provided herein and in the various bid documents, unless specifically noted otherwise in the proposal.
  - 1.4 Each proposal shall be accompanied by the Affidavit regarding price fixing, gratuities, bribery, and discriminatory employment practices in accordance with Section E.1.c. (3)(b) of the Howard County Purchasing Manual. When the Contractor is a corporation, a duly authorized representative of said corporation shall execute the Affidavit. The Affidavit is provided in the solicitation package.
  - 1.5 If a discrepancy in or omission from the specifications is found, or if a Contractor is in doubt as to their meaning, or feels that the specifications are discriminatory, the Contractor shall notify the Buyer in the Issuing Office in writing not later than ten days prior to the scheduled proposal opening. Exceptions taken do not obligate the County to change the specifications. The Issuing Office will notify all Contractors of any changes, additions or deletions to the specifications by Addenda posted on the Office of Purchasing web site ([www.howardcountymd.gov/departments/county-administration/purchasing](http://www.howardcountymd.gov/departments/county-administration/purchasing)).
  - 1.6 The County will assume no responsibility for oral instructions or suggestions. All official correspondence in regard to the specifications shall be directed to and will be issued by the Issuing Office.
  
- 2 PROPOSAL DOCUMENTS: Contractors shall submit one original clearly marked, and **eight copies** of the complete proposal, and one electronic copy on portable media (CD, DVD, thumb-drive, etc), to the Issuing Office prior to the opening date and time specified in Section A. Failure to return required documents may be cause for rejection of the proposal. This solicitation requires the return of the following documents:
  - 2.1 Technical Submittal: Bidders shall submit Technical Proposals including the following as a minimum:
    - 2.1.1 General
      - 2.1.1.1 Legal title, address, and phone number of organization
      - 2.1.1.2 Representative's name, title, and address
      - 2.1.1.3 Contractor shall detail any assumptions, changes, or clarifications contrary to or supplementing information provided in the RFP or Sample Agreement, which are used to prepare the Technical or Price Submissions. Failure to identify these assumptions, change or clarifications allows the County to assume the proposer is in full compliance with these documents.
      - 2.1.1.4 Bidders to detail any exceptions to Sample Agreement (Exhibit I).
    - 2.1.2 Experience: Sufficient detail that demonstrates experience and knowledge of the services to be provided that minimally includes:

- 2.1.2.1 References for previous work with city, county, and state governments
- 2.1.2.2 List of biosolids management projects completed by the Contractor's organization within the last five (5) years. Include name of Customer, address, contact person with telephone number, product cost, type of biosolids, length of contract, and description of project.
- 2.1.2.3 Indicate biosolids management experience with the Maryland Department of the Environment. Include size, location, and number of permits for sites permitted over the past five (5) years.
- 2.1.2.4 List all work awarded to their firm as a general contractor within the last five years that the Offeror has failed to complete.
- 2.1.3 Work Plan – Include with the Technical Proposal a complete description of the proposed work plan for management and disposing of biosolids under this contract. The work plan shall include:
  - 2.1.3.1 General description
  - 2.1.3.2 List equipment owned by the Offeror intended to be used for this project.
  - 2.1.3.3 List equipment that the Offeror intends to purchase if awarded this project.
  - 2.1.3.4 List equipment that the Offeror intends to rent/lease for this project.
  - 2.1.3.5 Description of equipment, methods, and staffing proposed for biosolids acceptance.
  - 2.1.3.6 Description of proposed biosolids transportation plan to include type and number of vehicles and preliminary hauling schedule.
  - 2.1.3.7 Description of equipment and methods proposed for the processing and beneficial reuse or ultimate disposal of biosolids, including the proposed system for application rate control. This shall also include the intended location of the beneficial use or disposal sites.
  - 2.1.3.8 Description of facilities proposed for the temporary storage, processing, distribution and/or disposal of biosolids, including approved landfills, during nonapplication periods. Indicate size and type of facility and ability to accommodate storage requirements as given in this RFP. This shall also include the intended location of proposed landfill sites.
  - 2.1.3.9 Description of the proposed records and reporting system.
  - 2.1.3.10 Description of the proposed safety, emergency spill control and clean-up plans.
  - 2.1.3.11 A detailed, phased plan for implementation, using the Notice-of-Award as day one (1). Describe planning, construction, equipment, delivery and installation, test and check out, and permit acquisition in sufficient detail, so as to enable the beginning of "routine operations" by the beginning of the estimated Agreement Period (see Section D.7).
  - 2.1.3.12 Land Application Sites - Attach summaries of existing permits available for sites that are intended to be used for biosolids beneficial use or disposal following the award of this contract. Indicate the remaining capacity for biosolids application at each site. Also attach copies of existing permits issued by the State of Maryland for transporting, storage, and land application of biosolids. Describe additional sites which may be need to be permitted to meet the requirements for one-year of

Howard County permitted capacity within ninety (90) days of the Notice-to-Proceed.

- 2.1.4 Section F, (Technical Proposal Pages)
- 2.1.5 Section F, (Contractor's Qualification Information)
- 2.1.6 Section G, (Affidavit)
- 2.2 Price Submittal
  - 2.2.1 Section F, (Price Proposal Pages)
  - 2.2.2 Section H, (Equal Business Opportunity Participation)
  - 2.2.3 Section I, (Wage Requirement)
- 3 ELECTRONIC AND HARD COPIES: Contractors should submit a CD or flash drive containing the entire, identical hard copy of the proposal along with the hard copies required above. Additionally, it is requested that a separate version, redacted in accordance with Public Information/Proprietary/Confidential Information [Section C, Paragraph 19], be added to the electronic copy.
- 4 SAMPLE INVOICE: Contractors are required to provide a sample invoice with the proposal response. The sample invoice shall contain the details enumerated in Section D, Paragraph 15.2.
- 5 EXCEPTIONS: If the Contractor cannot meet the terms, conditions and/or specifications of the solicitation, the Contractor must furnish a statement on company letterhead giving a complete description of any exceptions to the terms, conditions, and specifications. Failure to furnish the statement means that the Contractor agrees to all terms, conditions and specifications. Exceptions taken do not obligate the County to change the terms, conditions and/or specifications. Exceptions to the terms and/or conditions and/or to the County's standard Agreement may be sufficient cause for rejection of the proposal.
- 6 SITE CONDITIONS: The submission of a proposal shall be considered representation that the Contractor has carefully investigated all conditions which affect or may, at some future date, affect the performance of the work or services covered by the solicitation, the entire area to be serviced as described in the solicitation and that the Contractor is fully informed concerning the conditions to be encountered, character, quality and quantity of work to be performed, and equipment and materials to be furnished. The Contractor shall also be familiar with all Federal, State, and County laws, all codes and ordinances of the County which in any way affect the performance of the work, or persons engaged or employed in the work, or the materials and equipment used in the work.

SECTION F

TECHNICAL PROPOSAL COVER PAGE

TITLE: Biosolids Management – Little Patuxent Water Reclamation Plant

TO: HOWARD COUNTY OFFICE OF PURCHASING  
6751 Columbia Gateway Drive, Suite 501  
Columbia, MD 21046

The undersigned agrees to furnish and deliver the above goods and/or services in accordance with the specifications issued for same, and subject to all terms, conditions, and requirements in the solicitation, and in the various bid documents:

COMPANY NAME: \_\_\_\_\_

FEDERAL TAX IDENTIFICATION NO./SOCIAL SECURITY NO.: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
Street City State Zip

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

REPRESENTATIVE'S NAME: \_\_\_\_\_

(If applicable, for Agreements) Provide the name and title of the person with legal authority to sign on behalf of the Contractor. If the title of the individual is not "President" or "Vice President", provide verification of the signatory authority with your submittal.

NAME OF COMPANY SIGNATORY (Printed): \_\_\_\_\_

TITLE OF COMPANY SIGNATORY (Printed): \_\_\_\_\_

Howard County prefers to email Purchase Orders when possible, please provide an **EMAIL ADDRESS FOR RECEIPT OF PURCHASE ORDERS:** \_\_\_\_\_

Is the company a Minority-, Women-, or Disabled-Owned Business Enterprise?  YES  NO

If yes, indicate the type of minority ownership:

- African American
- Asian American
- Disabled
- Eskimo
- Female
- Hispanic
- Native American

Is the company certified? If yes, indicate the certification(s) held:

- Howard County Government
- MD Dept. of Transportation
- City of Baltimore
- Other

Certification Number(s) and Expiration Date(s): \_\_\_\_\_

Does the company have a written non-discrimination policy (i.e.: race, creed, religion, handicap, color, sex, national origin, age, occupation, marital status, political opinion, sexual orientation, gender identity/expression, personal appearance, familial status, source of income)?  YES  NO

*(The County reserves the right to request such documentation, if desired, at a later date.)*

Delivery Time After Receipt of Order: \_\_\_\_\_

[If applicable] *(This delivery time will be considered in determining the award.)*

Delivery Terms: F.O.B. LPWRP, Inside Delivery.

The company will accept Visa procurement cards:  YES  NO

*(Contractors are not permitted to charge the County any additional fees over and above their bid prices to process payments on procurements cards.)*

**SECTION F**

**TECHNICAL PROPOSAL PAGE NO. 2**

COMPANY NAME: \_\_\_\_\_

PAYMENT TERMS: (The payment terms shall be considered net 30 days unless otherwise indicated.) \_\_\_\_\_

Howard County is exempt from all local, state, and federal taxes, and prices stipulated by the Contractor are considered maximum and are not subject to any increase due to any taxes, or any other reason. The County's Tax Exemption Number is 30001219.

We wish to submit a "NO BID" at this time, but request that our company remain on the Contractors list for future solicitations.

**ACKNOWLEDGEMENT OF ADDENDA:** The company shall identify by number and date the following addenda and agree that the prices shown in the proposal reflect all changes made by addenda. In addition to acknowledging addenda here, the actual addenda must be signed and returned with the proposal. To check for addenda go to: [www.howardcountymd.gov/departments/county-administration/purchasing](http://www.howardcountymd.gov/departments/county-administration/purchasing).

Number: \_\_\_\_\_ Date: \_\_\_\_\_                      Number: \_\_\_\_\_ Date: \_\_\_\_\_

Number: \_\_\_\_\_ Date: \_\_\_\_\_                      Number: \_\_\_\_\_ Date: \_\_\_\_\_

**THE PERSON SIGNING THE PRICE PAGE MUST INITIAL ANY ALTERATIONS IN FIGURES IN INK.**

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

**SECTION F****PRICE PAGE**

COMPANY NAME: \_\_\_\_\_

TITLE: Biosolids Management – Little Patuxent Water Reclamation PlantNIGP CODE/PRODUCT CODE: 958-12 Bio-Solids Management Services

ITEM NO.	SERVICE DESCRIPTION	ESTIMATED QUANTITY (U.S. Ton)	UNIT PRICE** (\$/Ton)	EXTENDED PRICE (\$)
1	Processing fee for wet, unstabilized biosolids (beneficial use)	34,000	\$_____	\$_____
2	Processing fee for anaerobically digested biosolids (beneficial use)	21,000	\$_____	\$_____
3	Processing fee for wet anaerobically digested biosolids (beneficial use)	10,500	\$_____	\$_____
4	Processing fee for dry anaerobically digested biosolids (beneficial use)	12,500	\$_____	\$_____
5	Processing fee for dry anaerobically digested biosolids (beneficial use)	12,500	\$_____	\$_____
6	Processing fee for biosolids taken to landfill	1,000	\$_____	\$_____
TOTAL BID PRICE *				\$_____

\* This figure should appear as Total Bid Price, Price Page No. 2 and be the sum of Item 1-6 Extended Prices.

\*\* Please note that prices shall only have **TWO DECIMAL PLACES**. The County's financial system will not allow more than two decimal places, adjust responses accordingly.

**INVOICE PROCEDURE FOR SUCCESSFUL CONTRACTORS:**

In order to facilitate prompt payment, invoices must contain the above commodity and/or service descriptions and pricing. Invoices failing to contain the required line item detail, including contract line number and unit pricing, may be returned for correction. Please submit a sample invoice with the response

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

**SECTION F**

**CONTRACTOR'S QUALIFICATION INFORMATION**

(Must be submitted with the Technical proposal)

COMPANY NAME: \_\_\_\_\_

1. References: Give name, address, and telephone number of owner or manager of three accounts for which Contractor has provided biosolids management during the past three years.

1.1.	Account Name	Contract Completion Date
	_____	_____
	Owner/Manager	Telephone
	_____	_____
	Address	Email
	_____	_____
	_____	_____

1.2.	Account Name	Contract Completion Date
	_____	_____
	Owner/Manager	Telephone
	_____	_____
	Address	Email
	_____	_____
	_____	_____

1.3.	Account Name	Contract Completion Date
	_____	_____
	Owner/Manager	Telephone
	_____	_____
	Address	Email
	_____	_____
	_____	_____

2. The Contractor has provided the above services for \_\_\_\_ years. (Note: 5 year minimum)

**SECTION G**

**AFFIDAVIT**

Must be completed, signed by an officer of the company (President, CEO, Vice President, etc), and submitted with the bid.

Contractor \_\_\_\_\_

Address \_\_\_\_\_

I, \_\_\_\_\_, the undersigned, \_\_\_\_\_ of the above named  
(Print Signer's Name) (Print Office Held)

Contractor does declare and affirm this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, that I hold the aforementioned office  
(Month) (Year)  
in the above named Contractor and I affirm the following:

**AFFIDAVIT I**

The Contractor, his Agent, servants and/or employees, have not in any way colluded with anyone for and on behalf of the Contractor or themselves, to obtain information that would give the Contractor an unfair advantage over others, nor have they colluded with anyone for and on behalf of the Contractor, or themselves, to gain any favoritism in the award of the contract herein.

**AFFIDAVIT II**

No officer or employee of Howard County, whether elected or appointed, has in any manner whatsoever, any interest in or has received prior hereto or will receive subsequent hereto any benefit, monetary or material, or consideration from the profits or emoluments of this contract, job, work or service for the County, and that no officer or employee has accepted or received or will receive in the future a service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally, nor has any such officer or employee of the County received or will receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable to the County in connection with this contract, job, work, or service for the County, excepting, however, the receipt of dividends on corporation stock.

**AFFIDAVIT III**

Neither I, nor the Contractor, nor any officer, director, or partners, or any of its employees who are directly involved in obtaining contracts with Howard County have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state, or of the federal government for acts of omissions committed after July 1, 1977.

**AFFIDAVIT IV**

Neither I, nor the Contractor, nor any of our agents, partners, or employees who are directly involved in obtaining contracts with Howard County have been convicted within the past 12 months of discrimination against any employee or applicant for employment, nor have we engaged in unlawful employment practices as set forth in Section 12.200 of the Howard County Code, or Subtitle 6 of Title 20 of the State Government Article, Annotated Code of Maryland or, of Sections 703 and 704 of Title VII of the Civil Rights Act of 1964 as amended.

**AFFIDAVIT V**

The Contractor:

- i. Is not currently identified on the list created by the Maryland State Board of Public Works as a person engaging in investment activities in Iran as described in Section 17-702 of the *Maryland State Finance and Procurement Article*; or
- ii. Is not currently engaging in investment activities in Iran as described in Section 17-702 of the *Maryland State Finance and Procurement Article*.

If the person is unable to make the certification, it will provide the County, a detailed description of the Contractor's investment activities in Iran.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavits are true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Rev. 10/25/2016

## SECTION H

## EQUAL BUSINESS OPPORTUNITY PARTICIPATION

**NOTICE TO PRIME CONTRACTORS**  
**10% SUBCONTRACTING GOAL ON CONTRACTS**  
**VALUED AT \$50,000 OR MORE**

Howard County Code Section 4.122 established an Equal Business Opportunity program to foster overall equity and fairness to all citizens in relation to business enterprises conducting business with the County.

If a contract is \$50,000 or more, the Prime Contractor shall make a good faith effort to comply with the Howard County Equal Business Opportunity (EBO) program's 10% subcontracting goal. The Prime Contractor shall make a good faith effort to obtain minority subcontractor participation even if the Prime Contractor has the capability to complete the work with its own workforce. This is also applicable to Prime Contractors that are minority-owned firms. The percentage requirement may vary. Prime Contractors should submit the following completed *Equal Business Opportunity Subcontractor Participation Form* with the bid. Identify subcontractors prior to submitting the proposal. After contract award, changes in subcontractors require the written approval of the EBO Coordinator.

Possible areas of obtaining subcontracting participation include, but are not limited to, flagging services, hauling, copying and printing, and the purchase of materials used in performing the contract. Contractors may use minority, women or disabled business enterprises certified by Howard County, Maryland; the Maryland Department of Transportation; the City of Baltimore, Maryland; or another certifying entity in order to satisfy the 10% subcontracting goal. The website addresses for lists of minority businesses are:

[Howard County - Equal Business Opportunity List of Firms A-Z](http://www.mdot.state.md.us/MBE_Program/index.html)  
[http://www.mdot.state.md.us/MBE\\_Program/index.html](http://www.mdot.state.md.us/MBE_Program/index.html)  
<http://cityservices.baltimorecity.gov/mwboo>

Contractors should submit a completed *Equal Business Opportunity Subcontractor Participation Form* with the bid identifying each certified EBO firm they intend to use on the contract. However, if the EBO Subcontractor Participation Form is not submitted with the bid, the County may request EBO subcontractor participation of the successful contractor.

Contractors failing to achieve the Equal Business Opportunity Program goal following a good faith effort to obtain participation must complete the *Equal Business Opportunity Program Request for Subcontracting Waiver* and provide documentation of its good faith attempts to obtain EBO participation. The County will determine if the efforts made satisfy a good faith attempt. A waiver will only be considered in rare contracts after a determination that the Contractor has made a good faith effort and thoroughly documented the efforts. Contractors should submit the *Equal Business Opportunity Program Request for Subcontracting Waiver* with the bid. However, if the request for waiver form is not submitted with the bid, the County may obtain the request for waiver of the successful contractor.

If the County exercises its option to renew the contract, it is expected that the EBO subcontracting goal will be met for each subsequent contract year when the contract amount is \$50,000.00 or more. Questions relating to the EBO program shall be directed to the EBO Coordinator 410-313-6370.

**PRIME CONTRACTORS' COMPLIANCE OF EBO SUBCONTRACTOR PARTICIPATION**

Prime Contractors that are awarded County contracts shall maintain adequate records of EBO participation on County contracts. The County may require that prime contractors report whether or not they met the proposed EBO subcontracting goal, so that the County can track compliance of EBO participation on County contracts.



**HOWARD COUNTY, MARYLAND  
EQUAL BUSINESS OPPORTUNITY (EBO)  
SUBCONTRACTOR PARTICIPATION FORM**

COUNTY USE ONLY

EBO APPROVAL

<b>CONTRACT TITLE:</b>		
<b>SOLICITATION #</b>	<b>CAPITAL PROJECT #</b>	<b>CONTRACT / PO #</b>
<b>TERM:</b>	<b>RENEWAL #</b>	<b>AMOUNT \$</b>

<b>PRIME CONTRACTOR NAME:</b>		
<b>ADDRESS:</b>		<b>PHONE:</b>
<b>EBO STATUS (Y/N):</b>	<b>*EBO TYPE:</b>	<b>CERTIFYING AGENCY:</b>
		<b>CERTIFICATION #</b>

**PRIME CONTRACTOR SHOULD LIST ALL EBO SUBCONTRACTORS / SUBCONSULTANTS / SUPPLIERS**

**INSTRUCTIONS FOR COMPLETING THIS FORM**

- Complete the section below identifying each certified EBO firm (Minority (MBE), Woman (WBE), and Disabled (DBE) Business Enterprises) you intend to use on this project. Attach additional sheets if more than two (2) subcontractors.
- This form represents the contractor's commitment to utilize the named EBO firms at the percentages indicated should the contract be awarded to the contractor. This form should accompany your bid or proposal.
- **\*EBO Types:** AA (African American), ASA (Asian American), HIS (Hispanic American), NA (Native American), FEM (Female), DIS (Disabled)

<b>SUBCONTRACTOR NAME:</b>		
<b>ADDRESS:</b>		<b>PHONE:</b>
<b>CONTACT REPRESENTATIVE:</b>		<b>EMAIL:</b>
<b>*EBO TYPE (Check One)</b>	<input type="checkbox"/> AA	<input type="checkbox"/> ASA
	<input type="checkbox"/> HIS	<input type="checkbox"/> NA
	<input type="checkbox"/> FEM	<input type="checkbox"/> DIS
<b>CERTIFYING AGENCY:</b>	<b>CERTIFICATION #</b>	<b>EBO PARTICIPATION %</b>
<b>DESCRIPTION OF WORK:</b>		<b>EBO PARTICIPATION \$</b>

<b>SUBCONTRACTOR NAME:</b>		
<b>ADDRESS:</b>		<b>PHONE:</b>
<b>CONTACT REPRESENTATIVE:</b>		<b>EMAIL:</b>
<b>*EBO TYPE (Check One)</b>	<input type="checkbox"/> AA	<input type="checkbox"/> ASA
	<input type="checkbox"/> HIS	<input type="checkbox"/> NA
	<input type="checkbox"/> FEM	<input type="checkbox"/> DIS
<b>CERTIFYING AGENCY:</b>	<b>CERTIFICATION #</b>	<b>EBO PARTICIPATION %</b>
<b>DESCRIPTION OF WORK:</b>		<b>EBO PARTICIPATION \$</b>

---

 PRINTED NAME

---

 EMAIL

---

 SIGNATURE (VENDOR OFFICIAL)

---

 TITLE

---

 DATE

Revised 12/20/2013

Buyer Initial

## SECTION I

### Information on Howard County, Maryland's Living Wage Requirement

#### Basics of the Howard County Living Wage Legislation

In 2007, the Howard County Council passed legislation requiring a minimum "living wage" for employees of certain contractors and subcontractors of Howard County. A Contractor that is defined as a "Covered Employer" under Howard County Code Section 4.122A shall pay each employee an hourly rate sufficient to at least equal 125% of the federal poverty guidelines for a family of four individuals calculated on the basis of a 40-hour work week for 52 weeks.

Howard County Code Sec. 4.122A applies to service contracts estimated to be over \$100,000.00 per year. The code does not apply to commodities contracts, contractors who employ fewer than 5 employees during the contract term, public entities, non-profit organizations, or contracts awarded under sole source, emergency, or expedited procedures. Other contractors may also be exempt; see the complete list of exemptions in Section I on the front of this form.

The living wage requirements do not apply to an employee:

- who performs no measurable work related to any contract with the County
- who participates in a government-operated or government-sponsored program that restricts the earnings of or wages paid to employees to a level below the wage required under the law
- who participates for not longer than 120 days in a calendar year in a government-operated or government-sponsored summer youth employment program
- for whom a different wage rate is expressly set in a collective bargaining agreement, or
- for whom a higher wage is required by a federal, state, or County law.

This form serves as written certification to the County of your firm's intent to comply with the County's wage requirements during this term and any subsequent renewals. A Covered Employer shall not subdivide a contract; pay an employee through a third party; or treat an employee as a subcontractor or independent Contractor to avoid the imposition of any requirement under this law. Failure to comply with this requirement at any time during the initial term and subsequent renewals may be sufficient cause for termination for default. A violation of this law is a Class A civil offense; in addition to a fine, the County may suspend or debar the violator under Howard County Code Sec. 4.117.

#### Current Living Wage Rate in Howard County

As of January 31, 2017, the Living Wage Rate is **\$14.78 per hour**.

#### How the Living Wage Rate is Calculated

The Howard County Living Wage Rate is calculated by taking 125% of the Federal Poverty Guideline for a family of 4, then using this amount to determine the hourly rate based on 40 hours/week. For example, on January 31, 2017, the Federal HHS Poverty Guideline was published as \$24,600 for a family of 4 (see <https://aspe.hhs.gov/poverty-guidelines>).

$$125\% \text{ of } \$24,600 = \$30,750.00 \quad \$30,750.00 \div 52 \text{ weeks} \div 40 \text{ hrs/week} = \mathbf{\$14.78 \text{ per hour}}$$

This hourly rate must be paid to employees (full-time or part-time) during the time the employees actually provide services to the County. The current Living Wage remains in effect until new federal poverty guidelines are published, which is usually the following January. If there is a change, the Office of Purchasing will attempt to notify all current contractors via email using the email address provided on this form. The current rate is posted on our website at [www.howardcountymd.gov/purchasing](http://www.howardcountymd.gov/purchasing). It is the contractor's responsibility to ascertain the current rate.

**Since the rate is subject to change annually, you must ensure that your bid pricing is sufficient to cover the cost of any increases during the term of the contract, including subsequent renewals.** All prices shall take the current wage rate, and subsequent increases in the wage rate, if any, into account and there shall be no unit price adjustment for future wage rate increases during the initial term of this agreement and any subsequent renewals thereof. Future wage rate increases are hereby defined as any new rates approved by the County that take effect after and supersede the rate shown in this solicitation.

**If you have questions about the Living Wage Requirement or how to complete this form, please contact the Office of Purchasing at [purchasing@howardcountymd.gov](mailto:purchasing@howardcountymd.gov) or 410-313-6370.**



**EXHIBIT I**

**SERVICE AGREEMENT**

by and between

**HOWARD COUNTY**

and

(The CONTRACTOR)

Dated as of <Month>, <Day> 2017

## TABLE OF CONTENTS

## ARTICLE 1: DEFINITIONS AND RULES OF INTERPRETATION

Section 1.1	Definitions .....	1
Section 1.2	Rules of Interpretation .....	1

## ARTICLE 2: INITIAL TERM, AGREEMENT PERIOD, AND INITIAL SERVICE DATE

Section 2.1	Initial Term .....	2
Section 2.2	Agreement Period .....	2
Section 2.3	Initial Service Date .....	3

## ARTICLE 3: OBLIGATIONS OF THE CONTRACTORS WITH RESPECT TO BIOSOLIDS

Section 3.1	Contractor Obligation to Accept, Process, and Transport Biosolids .....	3
Section 3.2	Contractor Obligation to Operate & Maintain Systems for Processing of Biosolids .....	3
Section 3.3	Contractor Obligation to Remove and Transport Biosolids .....	4
Section 3.4	Obligation to Cause Beneficial Use of Biosolids .....	6

## ARTICLE 4: GENERAL CONTRACTORS OBLIGATIONS

Section 4.1	Permits .....	6
Section 4.2	Applicable Law .....	6
Section 4.3	Reports and Records .....	6
Section 4.4	Contractor Contact Personnel .....	8
Section 4.5	Communication .....	8
Section 4.6	Books and Records .....	8
Section 4.7	Subcontractors .....	8
Section 4.8	Contractor Staff .....	9
Section 4.9	Other Contractor Business .....	9
Section 4.10	Contract Affidavit .....	9
Section 4.11	Odor Obligations .....	9

## ARTICLE 5: OBLIGATIONS OF THE COUNTY

Section 5.1	Biosolids at LPWRP .....	9
Section 5.2	Equipment at LPWRP .....	10
Section 5.3	Utilities and Facilities at LPWRP .....	11
Section 5.4	County Permits .....	11

## ARTICLE 6: PERFORMANCE DAMAGES

Section 6.1	Contractor Performance Damages - General .....	11
Section 6.2	Performance Damages - Specific .....	12

## ARTICLE 7: PAYMENTS

Section 7.1	Service Fee .....	12
Section 7.2	Invoices .....	13

## ARTICLE 8: UNCONTROLLABLE CIRCUMSTANCES

Section 8.1	Uncontrollable Circumstances – General .....	13
-------------	--	----

## ARTICLE 9: DEFAULT AND TERMINATION

Section 9.1	Remedies for Default .....	..
Section 9.2	.....	14
Section 9.3	Events of Default by the Contractor .....	14
Section 9.4	Events of Default by the County .....	16
Section 9.5	Termination on Default .....	16
Section 9.6	Termination for Convenience .....	17
	Survival of Certain Rights and Obligations .....	17

## ARTICLE 10: INSURANCE

Section 10.1	Types of Insurance for the Contractor .....	17
Section 10.2	Delivery of Policies; Certain Required Provisions .....	18

## ARTICLE 11: INDEMNIFICATION

Section 11.1	Indemnification by the Contractor .....	18
Section 11.2	Indemnification by the County .....	19

## ARTICLE 12: PERFORMANCE BOND

Section 12.1	Performance Bond .....	19
Section 12.2	Term; Amount .....	20

## ARTICLE 13: MISCELLANEOUS

Section 13.1	Assignment .....	20
Section 13.2	Notices .....	20
Section 13.3	Entire and Complete Agreement .....	21
Section 13.4	Binding Effect .....	21
Section 13.5	Other Documents .....	21
Section 13.6	Applicable Law .....	21
Section 13.7	Headings .....	21
Section 13.8	Counterparts .....	21
Section 13.9	Amendment or Waiver .....	21
Section 13.10	Confidential Information .....	21
Section 13.11	Severability .....	22
Section 13.12	Relationship of the Parties .....	22
Section 13.13	Effect of County Approvals .....	22
Section 13.14	Dispute Resolution .....	22
Section 13.15	Nondiscrimination .....	23
Section 13.16	Minority Consideration .....	23
Section 13.17	Estoppel Certificates .....	23
Section 13.18	Limitation of Liability of County .....	23
Section 13.19	County Changes .....	24

## SCHEDULES

Schedule 1	Definitions
Schedule 2	Site Plans and Loading Area
Schedule 3	Class B Biosolids Distribution Protocol
Schedule 4	Contract Affidavit
Schedule 5	Form of Performance Bond
Schedule 6	Howard County Charter and Code References to Ethics
Schedule 7	Required Insurance

## SERVICE AGREEMENT

THIS SERVICE AGREEMENT (the "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Effective Date") between Howard County, Maryland, a body corporate and politic (the "County") and \_\_\_\_\_ (the "Contractor"). The County and the Contractor are each individually referred to herein as a "Party" and are collectively referred to herein as "Parties".

WHEREAS, the said Contractor, in consideration of the payments hereinafter specified and agreed to be made by said County, hereby covenants and agrees to perform all services, in strict and entire conformity with the Attachment A entitled, "Services to be Performed", any Purchase Order subsequently issued, the Request for Proposals No. 01-2018 Biosolids Management – Little Patuxent Water Reclamation Plant, the Contractor's response [the Best and Final Offer dated \_\_\_\_\_, if applicable] and any amendments or revisions thereto (collectively, the "Proposal"), incorporated herein either by reference or attachment, as applicable.

### RECITALS

- A. The County owns and operates the Howard County Little Patuxent Water Reclamation Plant (the "LPWRP" or "Plant"), a 29mgd wastewater treatment facility, and has requested that the Contractor provide for the acceptance of all Biosolids leaving the centrifuges at the Plant; the operation of a temporary stabilization system (onsite or offsite) to meet Class A or B regulations; and the removal, transportation, marketing and Beneficial Use of the Stabilized Biosolids.
- B. The LPWRP is situated on a 48-acre site located between U.S. Route 1 and the CSX rail lines south of Savage. The LPWRP is owned by the County and operates in accordance with federal regulations, 40 CFR Part 503, and state regulations, COMAR 26.04.06. The LPWRP operates pursuant to Maryland Department of the Environment NPDES Discharge Permit #MD 0055174.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

## ARTICLE 1 DEFINITIONS AND RULES OF INTERPRETATION

### SECTION 1.1 Definitions

Capitalized terms used in this Agreement have the meanings set forth in Schedule 1 and include the plural as well as the singular.

## **SECTION 1.2      Rules of Interpretation**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) All references in this Agreement to designated "Articles," "Sections," "Schedules" and other subdivisions are to the designated Articles, Sections, Schedules and other subdivisions of this Agreement.

(b) Words of the masculine gender include correlative words of the feminine and neuter genders.

(c) The table of contents and the headings or captions used in this Agreement are for convenience of reference only and do not define, limit or describe any of the provisions hereof or the scope or intent hereof.

(d) References to agreements or contracts include all amendments, modifications and supplements thereto.

(e) The Agreement includes by reference RFP 01-2018 Biosolids Management – Little Patuxent Water Reclamation Plant, advertised June 27, 2017, Contractor's Proposal as response to the RFP, and terms and conditions outlined in any applicable Howard County Purchase Orders associated with this agreement. If a conflict arises between documents the following order of precedence shall apply:

1. Amendments to this Agreement
2. This Agreement
3. Contractor's Proposal
3. The RFP 01-2018 and any addendums
4. Howard County Purchase Order

## **ARTICLE 2**

### **INITIAL TERM, AGREEMENT PERIOD, AND INITIAL SERVICE DATE**

#### **SECTION 2.1      Initial Term**

The "Initial Term" of this Agreement shall be the period beginning on the Effective Date and shall continue to (and include) the first anniversary of the Initial Service Date.

#### **SECTION 2.2      Agreement Period**

This is a service requirements type agreement for one (1) year commencing upon execution of the agreement documents, with a renewal option for four (4) additional one (1) year periods that will be exercised at the sole discretion of the County. The County shall provide written notice of its decision to exercise its renewal option at least 90 days prior to the anniversary date of the

executed agreement. Any work underway at the expiration of the agreement term shall be completed at the billing rates governing at the point of issuance of the Purchase Order, except as approved by the County.

### **SECTION 2.3      Initial Service Date**

The "Initial Service Date" shall be the date specified in a written notice from the County on which the Contractor shall begin performing its obligations under this Agreement. The County currently anticipates that the Initial Service Date will be December 1, 2017. The County shall provide the Contractor with at least five (5) Business Days prior written notice of the Initial Service Date after each of the following conditions precedent have been satisfied:

- (a) This Agreement shall have been executed and delivered by each of the County and the Contractor;
- (b) The State of Maryland has issued all necessary construction and operations permits to the County and the Contractor;
- (c) The State of Maryland has issued a distribution permit to the County and the Contractor has obtained all necessary transportation and use or disposal permits; and
- (d) The Contractor has passed performance testing of any onsite stabilization equipment necessary to meet the requirements of the contract.
- (e) The County has issued Notice to Proceed. Notice to Proceed is typically issued within 60-90 days of bid close. Notice to Proceed shall be the Contractor's notice to mobilize equipment, staff, and materials to ready for the Initial Service Date.

## **ARTICLE 3**

### **OBLIGATIONS OF THE CONTRACTOR WITH RESPECT TO BIOSOLIDS**

#### **SECTION 3.1      Contractor Obligation to Accept, Process, and Transport Biosolids**

Beginning on the Initial Service Date and continuing throughout the Term, the Contractor will accept all Biosolids leaving the LPWRP centrifuges; will process as necessary; will transport and properly dispose of the resultant material through beneficial use, or other disposal as approved by the County.

#### **SECTION 3.2      Contractor Obligation to Operate & Maintain Systems for Processing of Biosolids**

- (a) The Contractor will accept all Biosolids leaving the centrifuges in accordance with this Agreement, regardless of the quantity or the rate of delivery thereof. All Biosolids shall become the sole property and responsibility of the Contractor upon acceptance. The Contractor shall

not be relieved of its acceptance obligations due to any change or fluctuations from time to time in the quantity or rate of delivery of Biosolids. The County commits to producing the quantity of biosolids estimated in Article 5, within plus or minus 20% of quantities listed.

The Contractor shall be deemed to have accepted, and shall take ownership of, risk in, and responsibility for all Biosolids when they exit the centrifuge discharge conveyor.

(b) The "Delivery Hours" shall be from 7.00 a.m. until 12:00 a.m. midnight Monday through Friday and from 7.00 a.m. until 3.00 p.m. Saturday and Sunday. Upon prior notice to the Contractor (which may be telephonic if necessary in light of operating circumstances), the Delivery Hours may be modified to reflect the operating hours of the LPWRP.

(c) The Contractor shall operate and maintain all of its own equipment used in any onsite loading operations and/or stabilization process after the Biosolids leave the centrifuge discharge conveyor. The Contractor will provide routine maintenance of all equipment used in the onsite loading operations and/or stabilization process according to the manufacturer's recommendations. The Contractor shall be totally responsible for performing preventative and corrective maintenance on the equipment so as to prevent situations that cause the plant to delay, stop, or otherwise alter its normal production schedule.

(d) The Contractor may operate and maintain stabilization equipment on-site in the area provided by the County as needed to meet, at a minimum, Class B Biosolids requirements as set forth in 40 C.F.R. Parts 503 criteria for Class B pathogen reduction and vector attraction reduction and as set forth in Schedule 3, in addition to all applicable legal, regulatory, and licensing requirements of the State of Maryland. It is acceptable and preferred by the County that the Contractor treat the Biosolids in a location other than the LPWRP. The Contractor will conduct the necessary chemical, physical, and biological analysis required by State and Federal regulations.

(e) At its discretion, the Contractor may operate and maintain stabilization equipment and processes offsite, as needed to ensure the material meets at least Class B Biosolids requirements pursuant to 40 C.F.R. Parts 503 criteria for Class B pathogen reduction and vector attraction reduction, in addition to all applicable legal, regulatory, and licensing requirements of the State of Maryland. The Contractor will conduct the necessary chemical physical and biological analysis required by State and Federal regulations.

(f) After every attempt is made to stabilize the Biosolids to at least a Class B standard and only upon receiving written approval by the County, the Contractor may properly dispose of, in accordance with all Federal, State, and local laws and regulations, Biosolids in an operating and approved landfill. The Contractor will conduct the necessary chemical, physical, and biological analysis required by State and Federal laws and regulations and the landfill to prove that the Biosolids have met the landfill's requirements. The Contractor may not transport Biosolids to any Disposal Facility without the prior written approval of the County.

(g) The Contractor must accept all Unstabilized Biosolids tendered for delivery to it by or on behalf of the County, operate any needed onsite conveyance or process equipment, and remove all Biosolids from the LPWRP. The Contractor will not be excused from this obligation

for any reason, including the occurrence of an Uncontrollable Circumstance. The Contractor may, however, be entitled to additional compensation for Uncontrollable Circumstances as provided in Article 8.

### **Section 3.3 Contractor Obligation to Remove and Transport Biosolids**

(a) The Contractor shall provide sufficient watertight, sealed trailers at the LPWRP to remove all Biosolids generated at the LPWRP. The Biosolids shall be received from the centrifuge discharge conveyor and transported in water tight, sealed trailers that are owned by, or under contract to, the Contractor. The Contractor shall load the trailers on an ongoing basis as required and promptly remove such trailers from the LPWRP. If a trailer is stored overnight at the LPWRP pursuant to this Section 3.3(a), the Contractor shall bear full responsibility for covering and securing the loaded materials onto such trailer(s). In no event shall the Contractor store any materials at the LPWRP other than pursuant to this Section 3.3(a).

(b) The Contractor may store empty trailers at the LPWRP as necessary to perform its obligations under this Agreement at the locations provided by the County (see Schedule 2). Under no condition may vehicles used by the Contractor in the performance of its obligations hereunder park or queue on the streets adjacent to the LPWRP.

(c) The Contractor shall be responsible for keeping all locations where it operates in a neat and orderly condition free from rubbish, vehicle leakage, and undue noise. The Contractor shall be responsible for the security of its equipment, vehicles, and personnel located at the LPWRP and shall be responsible for the actions of all of its personnel or subcontractors who are at the LPWRP for the purpose of performing the Contractor's obligations hereunder. The County and its respective representatives shall have the right to inspect the trailers, vehicles, and any other equipment or materials of the Contractor or its subcontractors that are located at the LPWRP for the purpose of confirming performance by the Contractor of its obligations hereunder. The Contractor shall not bring to or maintain at the LPWRP any vehicles, materials or equipment that are not required to perform its obligations hereunder.

(d) If needed, the Contractor shall be responsible for the provision, operation and maintenance of a jockey tractor or other transport mechanism reasonably acceptable to the County, which may be used to transport trailers prior to their departure from the LPWRP site. The Contractor shall use the jockey tractor or such other transport mechanism reasonably satisfactory to the County to position trailers for loading, to load trailers, to have loaded trailers weighed pursuant to Section 6.2 and otherwise as necessary to move trailers on the LPWRP site.

(e) The Contractor shall maintain the onsite loading operations in a clean, neat and orderly condition so as to maintain the aesthetic quality of the Loading Area. The Contractor understands that a high standard of cleanliness, neatness and orderliness, is required because the County expects a large number of visitors to the LPWRP.

(f) In the performance of its obligations at the LPWRP, the Contractor shall comply with all applicable County rules, including rules regarding vehicular movement on the LPWRP site.

(g) The Contractor shall provide the County with the following information about each trailer and vehicle used to accept and transport Biosolids: name and address of owner; tare weight, make, body type, identification number, and motor vehicle registration number, if applicable.

(h) The Contractor shall transport all Biosolids delivered to it at the LPWRP either directly to a customer for Beneficial Use, to an interim processing, distribution, or storage facility, or to an approved landfill in accordance with this Agreement. The Contractor may not transport Biosolids to any Disposal Facility without the prior written approval of the County.

(i) The Contractor shall use covered water tight, sealed trailers and vehicles that are owned by, or under contract to, the Contractor to transport all Biosolids. All such trailers and vehicles shall be equipped with tight fitting seals or covers. The Contractor shall maintain all such trailers and vehicles in good condition at all times and make all repairs and replacements required for such vehicles and trailers. The Contractor shall cause all Required Insurance applicable to such vehicles and trailers to be maintained throughout the Term and cause all such vehicles and trailers to be operated in accordance with the applicable safety procedures and rules and regulations of the LPWRP. Upon the request of the County, the Contractor shall permit an independent consultant to inspect any vehicles and trailers (and associated maintenance records) used by or on behalf of the Contractor to transport Biosolids hereunder. The Contractor shall maintain vehicles and trailers in good repair and orderly condition to protect against deterioration and mechanical failure. The Contractor shall cause all vehicles used by or on behalf of the Contractor to transport Biosolids hereunder to be clean and sanitary.

(j) The Contractor shall operate the motor vehicle scales at the LPWRP to weigh and record all Biosolids accepted at the onsite loading operations and removed from the LPWRP by or on behalf of the Contractor under this Agreement. Prior to loading the Contractor vehicles, trailers, and containers, the Contractor shall establish tare weights of all such vehicles and print the tare weight on a trip ticket. After the loading of the Contractor vehicles, trailers, and containers is complete and before the vehicles, trailers, and containers have left the LPWRP, the Contractor shall establish gross weights of all such vehicles and print the gross weight of each vehicle on the same trip ticket which contains the tare weight of such vehicle. In addition to the tare weight and the gross weight, the trip ticket for each load shall contain the date, time of arrival, time of departure, Biosolids destination and vehicle identification (truck or permit number.) The Contractor shall use the identical combination of Contractor vehicles and trailers to establish the tare weight and the gross weight of all Contractor vehicles removing biosolids from the LPWRP. The Contractor shall use the weight records pursuant to this Section as the basis of its invoices with respect to the amount of Stabilized Biosolids processed, marketed, and transported by the Contractor.

#### **Section 3.4 Obligation to Cause Beneficial Use of Biosolids**

(a) The Contractor shall make best efforts to cause all Stabilized Biosolids to be Beneficially Used. Stabilized Biosolids may only be otherwise disposed of, if permitted by the terms of this Agreement and, in each case, in accordance with this Agreement, which includes prior written approval by the County.

(b) The Contractor shall acquire, design, construct, equip, test, operate, and maintain all equipment necessary to cause all Stabilize Biosolids to be Beneficially Used.

(c) The Contractor shall be responsible for all aspects of the ownership, permitting, security, operation, and maintenance of the Contractor's equipment.

The Contractor shall obtain all labor, materials, utilities, supplies, and other materials necessary to own, permit, secure, operate and maintain the labor and equipment necessary to fulfill its obligations under the Agreement. The Contractor shall cause the equipment to operate at such times as to be capable of causing all Biosolids produced at the LPWRP to be fully prepared for Beneficial Use. The Contractor shall cause the Contractor's equipment to be constructed, operated and maintained such that no Biosolids odor gives rise to a Nuisance Condition.

(d) A representative or designee of the County shall have the right to visit or inspect any Contractor processing, storage, or distribution facility during normal operating hours upon giving the Contractor reasonable prior notice. The County shall have the right to visit or inspect Beneficial Use customers' locations.

**ARTICLE 4  
GENERAL CONTRACTOR OBLIGATIONS**

**SECTIONS 4.1 Permits**

Except as provided in Section 5.4, the Contractor shall obtain and maintain all necessary local, state, and federal permits, and governmental approvals for (i) accepting and transporting Biosolids delivered to it hereunder, (ii) accepting and processing Unstabilized Biosolids, (iii) marketing and Beneficial Use of Stabilized Biosolids and (iv) performing all of its other obligations under this Agreement. The Contractor shall assist the County in causing the County to obtain the permits listed in Section 5.4.

**SECTION 4.2 Applicable Law**

The Contractor shall perform all of its obligations hereunder in accordance with Federal, State and local law, as well as any other applicable law and regulations ("Applicable Law"), and shall cause any subcontractor or other Person engaged by or on behalf of the Contractor to perform any Contractor obligation hereunder in accordance with such laws.

**SECTION 4.3 Reports and Records**

The Contractor shall prepare and deliver to the County monthly reports relating to the performance of its obligations hereunder. Reports shall be in the form and include such information and copies of records as requested by the County and the State of Maryland and may include, by way of example and not limitation: (i) the quantity and price of all reagents added to the Biosolids, (ii) information about the testing of the Biosolids, the quantity of reagents and all chemical and biological analysis, (iii) the identity and status of vehicles and trailers used to accept and transport Stabilized Biosolids during the month, (iv) the amount of Stabilized Biosolids distributed for Beneficial Use, and the amount of Biosolids transported to a Disposal Facility during the month, (v) the disposition of all Biosolids delivered to the Contractor during the month, (vi) any unusual or unacceptable activity at the LPWRP during the month, (vii) any accidents or

damage to vehicles, or the property of any Person, or any injury to any person incurred in connection with the performance of this Agreement during the month, (viii) any event occurring during such month which has or is likely to have a material adverse impact upon the Contractor or the performance of its obligations hereunder, (ix) copies of inspection reports, notices of violation, fines, penalties from the State of Maryland and any other regulatory agency having jurisdiction

over handling and disposition of the Biosolids, and information regarding any violations or the occurrence of events which will constitute violations of any permits, or other governmental approvals required to be maintained by the Contractor or its subcontractors in order to perform the Contractor's obligations hereunder that occur during such month, (x) any claims, or the occurrence of events which may result in claims, against any policy of Required Insurance during such month, and (xi) any other information reasonably requested by the County. The form, level of detail and supporting documentation to be provided with each monthly report shall be as reasonably required by the County.

#### **SECTION 4.4 Contractor Contact Personnel**

The Contractor shall designate a project manager who will be responsible for all Contractor activities during normal business hours, as well as contact personnel for emergency or after- hours operational matters. Contractor shall designate appropriately qualified and trained safety personnel for on-site processing activities and shall ensure that such personnel are on-site as required by law or regulation.

#### **SECTION 4.5 Communication**

The Contractor shall communicate with the County and their designees on a routine basis to ensure the day-to-day coordination of activities between the Contractor and the County. Upon request of the County, the Contractor shall meet with the County to address issues relating to the performance of this Agreement.

#### **SECTION 4.6 Books and Records**

The Contractor shall maintain books, records and accounts reflecting all matters affecting amounts owed by or to the Contractor under this Agreement, and all matters relating to the acceptance, transporting, processing, marketing, distribution, and disposal of Biosolids under this Agreement. All such books, records and accounts shall be maintained in accordance with generally accepted accounting principles, shall accurately, fairly and in reasonable detail reflect all the Contractor's dealings and transactions under this Agreement and shall be sufficient to enable those dealings and transactions to be audited in accordance with generally accepted auditing standards. The Contractor shall make all such books, records and accounts available for inspection and audit by authorized representatives of the County at all reasonable times. All such books, records and accounts shall be kept by the Contractor for at least five (5) years (or any longer period required by Applicable Law) following the termination of this Agreement.

#### **SECTION 4.7 Subcontractors**

The Contractor may, in its sole discretion, contract for or hire the services of any qualified, licensed, and insured Person for the performance of all or any portion of its obligations under Articles 2, 3, and 4 of this Agreement. The Contractor shall notify the County of the

name and scope of work for any such subcontractor and upon the reasonable request of the Contractor, the Contractor shall provide the County with a copy of any such contract. The Contractor shall ensure that each of its subcontractors complies with all requirements of this Agreement, including without limitation employment policies and practices required of the Contractor under this Agreement, for so long as such subcontract is in effect. If as a result of poor performance, financial insecurity, or other reasonable concerns the County determines that a subcontractor should not continue to perform obligations on behalf of the Contractor hereunder, the County shall so notify the Contractor of its position and the reasons therefore and the Contractor shall promptly undertake the replacement of such subcontractor; provided, however, that nothing herein shall obligate the County to monitor the activity of the Contractor or any of its subcontractors and the failure of the County to monitor, discover or notify the Contractor of any activity or performance failure by the Contractor or any subcontractor shall not result in liability of the County to the Contractor, any subcontractor, or any other Person nor relieve the Contractor of any of its obligations hereunder. In no event shall the Contractor be relieved of any of its obligations hereunder as a result of any contract or any action or inaction by any subcontractor.

**SECTION 4.8            Contractor Staff**

The Contractor shall maintain an adequate staff, trained for, with experience in, and, licensed or certified if required, to perform the Contractor's obligations under this Agreement.

**SECTION 4.9            Other Contractor Business**

During the Term, the Contractor may engage in other activities or businesses so long as such activities do not interfere with the ability of the Contractor to perform its obligations hereunder. In no event shall the Contractor be relieved of its obligations hereunder due to any activity or commitment of the Contractor related to the other activities or business described in this Section 4.9.

**SECTION 4.10         Contract affidavit**

The Contractor shall execute and deliver to the County a Contract Affidavit in the form of Schedule 4 hereto on or before the Effective Date.

**SECTION 4.11         Odor Obligations**

The Contractor shall perform its obligations under this Agreement in such a manner as to not create a Nuisance Condition with regard to odor as determined by a competent regulatory authority, under local, state, federal, or other Applicable Law.

**ARTICLE 5**  
**OBLIGATIONS OF THE COUNTY**

**SECTION 5.1**      **Biosolids at LPWRP**

(a) During the Term of this contract, the County will transition to new processes for managing Biosolids (from Unstabilized Biosolids to anaerobically digested solids), and during the first year of the contract, begin to divert the digested Biosolids to newly constructed anaerobic digestion and phosphorus precipitation processes, and during the second or third year of the contract, begin to divert the Biosolids to newly constructed direct heat drying equipment.

(b) The County will guarantee the following biosolids production within plus or minus 20% of the estimated quantities:

(i) December 1, 2017 through November 30, 2018: 34,000 wet tons of dewatered, unstabilized biosolids at approximately 18-22% solids concentration.

(ii) December 1, 2018 through November 30, 2019: 21,000 wet tons of anaerobically digested biosolids at approximately 20-25% solids concentration.

(iii) December 1, 2019 through May 30, 2020: 10,500 wet tons of anaerobically digested biosolids at approximately 20-25% solids concentration.

(iv) May 20, 2020 through November 30, 2020: 2500 tons of anaerobically digested and dried biosolids at approximately 92% solids concentration.

(c) The County cannot guarantee the final two years of the contract period, but provides the following as our best estimate of biosolid production during this two year period: December 1, 2020 through November 30, 2022: 10,000 tons of anaerobically digested and dried biosolids at approximately 92% solids concentration.

(d) The County will supply Unstabilized Biosolids from the centrifuge dewatering operation of the LPWRP to the Contractor that:

(i) Meet Table 3 (Pollutant Concentrations) requirements of 40 CFR Part 503 regulation and meet State of Maryland metal and polychlorinated biphenyls ("PCBs") requirements for general distribution,

(ii) Do not constitute a "hazardous waste" under Applicable Law,

(iii) Do not contain PCBs in amounts equal to or greater than 50 mg/kg (dry weight basis),

(iv) Do not contain any radioactive isotopes at levels that are regulated under Applicable Law

Unstabilized Biosolids that meet the criteria listed in this Section 5.1 are referred to as "Specification Biosolids". The County makes no representation that Unstabilized Biosolids have a particular viscosity or other characteristic, level, or quality except as specifically provided in this Section 5.1.

## **SECTION 5.2 Equipment at LPWRP**

(a) The County shall make available the Loading Area identified in Schedule 2, including the motor vehicle scales at the LPWRP for the Contractor's use in the performance of its obligations under this Agreement.

(b) The County shall inspect, test, and maintain the motor vehicle scales located at the LPWRP as required by Applicable Laws. In the event the permanent motor vehicle scales at the LPWRP are not working properly or are being tested, a "scale outage" will occur, and the County and Contractor shall estimate and agree on the quantity of Biosolids delivered to the Contractor on the basis of flow to the centrifuges, truck volumes, and available historical information. These estimates shall take the place of actual weighing records during the scale outage.

(c) At the written request of the Contractor, the County to make additional tests of the motor vehicle scales. The cost of these additional tests shall be paid by the Contractor if the scales meet the accuracy requirements of Applicable Law.

(d) If any motor vehicle scale test shows that a scale registers farther above or below the correct reading than permitted by Applicable Law, then the charges and calculations based on readings made (i) within thirty (30) days preceding the test; or (ii) if the Contractor has requested a test as provided above, from the date of such request, shall be corrected by the percentage of the inaccuracy found; provided, however, that if a test of the scales has been performed during the preceding thirty (30) days, only the readings and related charges and calculations made after the most recent test shall be corrected on the basis of the subsequent test.

## **SECTION 5.3 Utilities and Facilities at LPWRP**

The County will make available electrical power, potable water, plant water, sewer, and sanitary facilities as needed for the Contractors operations. No office space, telephone service, showers, locker rooms, or other amenities will be provided.

## **SECTION 5.4 County Permits**

If required by Maryland Department of the Environment, the County shall apply for and make every effort to obtain a Water and Sewer Construction Permit for the construction of any onsite lime stabilization equipment provided by and owned by the Contractor. The County will also submit and make every effort to obtain a Sludge Utilization Permit modification from the State of Maryland on or prior to the Initial Service Date. The County has provided the existing operations and distribution permits to the Contractor and the Contractor acknowledges that such County permits contain no provisions or other information that will materially adversely affect performance by the Contractor of its obligations hereunder. If a future issued permit or permit amendment to that which the Contractor has reviewed and acknowledges contains conditions that affect the cost of performance, such conditions will be considered an Uncontrollable Circumstance and the service fee adjusted as provided in Article 8.

## **ARTICLE 6 PERFORMANCE DAMAGES**

### **SECTION 6.1            Contractor Performance Damages - General**

(a) In the event the Contractor fails to accept, process, market, deliver for beneficial use, or dispose of Unstabilized Biosolids in accordance with this Agreement when tendered for, by or on behalf of the County pursuant to this Agreement, or fails to remove Stabilized Biosolids from the LPWRP site in accordance with this Agreement, or as a result of its failure to perform an obligation under this Agreement, causes a shut-down of the dewatering operations, the County shall have the right to take any necessary action to cure the failure, including the right to remove or cause the removal of Unstabilized or Stabilized Biosolids, as necessary, from the LPWRP and to dispose of such Biosolids. The Contractor shall pay to the County, or the County may deduct monies due to the Contractor, as performance damages in respect of its performance failure an amount equal to the sum of (i) the costs incurred by or on behalf of the County to take action to store, remove, transport, and dispose of such Biosolids, plus (ii) any additional costs, damages, penalties or fines incurred by the County as a result of such Contractor non-performance. The County shall be under no obligation to utilize any particular manner or method of storage, removal, transportation, or disposal and may utilize County storage, removal, transportation or disposal services or facilities if it so elects and any costs or damages payable to the County as a result thereof shall constitute costs of the County for the purposes of clause (i) above.

(b) The Contractor shall immediately advise the County by telephone (promptly confirmed in writing) of any events or conditions that will preclude or diminish its ability to perform any of its obligations hereunder to accept, process, market and transport Biosolids in a timely manner, the effect of such event or condition and the probable duration. The Contractor shall use its best efforts to overcome any such condition and to promptly resume performance of its obligations in accordance with this Agreement.

### **SECTION 6.2            Performance Damages - Specific**

(a) If any quantity of Stabilized Biosolids, fails to meet pathogen reduction or pH standards for Class B Biosolids, notwithstanding the delivery of Specification Biosolids to the Contractor's onsite Stabilization System, the County may allow the Contractor to dispose of the material at a qualified landfill with no additional cost to the County.

(b) If the Contractor fails to promptly and completely clean up any spill or leakage, the County shall have the right to take necessary action and the Contractor shall reimburse the County for all costs and expenses incurred.

(c) The Contractor shall pay, or the County may reduce payments due to the Contractor, in the amount of \$50.00 for each one half hour or fraction of a one-half hour that the dewatering operation is shut down due to the Contractor's failure to perform any of its obligations under this Agreement. The minimum time charged for any delay for purposes of determining the performance damages will be one half hour. Any dewatering operation shut downs will be documented in the de-watering logs and the appropriate amount shall be charged as Performance Damages in calculating the Service Fee.

## **ARTICLE 7 PAYMENTS**

### **SECTION 7.1      Service Fee**

(a) As consideration for the performance by the Contractor of all of its obligations hereunder, the County shall pay the Contractor the monthly Service Fee, which shall be an amount, calculated for a particular month as follows:

$$SF = PF + \text{"UCC"} - \text{"PD"}$$

Where:

"SF" means the Service fee

"PF" means the Processing Fee

"UCC" means Uncontrollable Circumstances

"PD" means any Performance Damages

(b) The monthly Uncontrollable Circumstances Costs (UUC) for each calendar month during the Term shall be the amount of Actual Costs incurred by the Contractor during such month with respect to any Uncontrollable Circumstances

(c) The monthly Performance Damage (PD) for each calendar month during the Term shall be the amount owned by the Contractor to the Authority with respect to performance failures during such month pursuant to Article 6.

### **SECTION 7.2      Invoices**

All amounts in respect of the Service Fee for a calendar month shall be invoiced by the Contractor to the County on or before the tenth Business Day of the immediately succeeding calendar month, but in no event earlier than the first Business Day of such succeeding calendar month. Invoices shall contain the amounts, methods, and basis of calculation and appropriate supporting documentation including, without limitation, trip tickets produced by use of the onsite scale at the time when the Contractor weighs the empty Contractor vehicles, for each component of the Service Fee. The County shall notify the Contractor in writing within ten (10) Business Days following receipt of the invoice of any dispute related thereto. The County shall pay the undisputed portion of the Contractor's invoice on or before the twenty-fifth day (or next Business Day if such twenty-fifth day is not a Business Day) following the receipt of the Contractor's invoice. Any dispute regarding the invoice shall be resolved as provided in Section 13.14.

**ARTICLE 8**  
**UNCONTROLLABLE CIRCUMSTANCES**

**SECTION 8.1 Uncontrollable Circumstances - General**

(a) "Uncontrollable Circumstances" means any event or circumstance beyond the reasonable control of the Party seeking relief as a result thereof, which prevents or delays or materially increases the cost to perform an obligation under this Agreement, including, without limitation (to the extent that they present the characteristics described above): (i) acts of war or of any public enemy whether war be declared or not; (ii) public disorders, insurrection, rebellion, sabotage, riots or violent demonstrations; (iii) explosion, fire, extraordinary weather conditions, including floods, that are unusual for the area, or other natural disasters; (iv) strikes or lock-outs or other industrial action by workers or employees that are not caused by the action or inaction of the affected Party or its subcontractors or agents; (v) any decision or action by any governmental, local or other competent authority, agency or institution which prevents, impedes or delays fulfillment by a Party of its contractual obligations under this Agreement to the extent such action is not caused by the acts or failure to act of the affected Party or its subcontractors or agents, but not including mechanical breakdown of plant or equipment unless due to an event described above and not including any failure to perform by a subcontractor, supplier or any other Person performing work for or on behalf of a Party unless due to an event affecting such subcontractor or Person that is described above. Notwithstanding the foregoing, no Uncontrollable Circumstance shall occur or be deemed to occur to the Contractor as a result of a decision or action by any governmental, local or other competent authority, agency or institution which in any way affects the Contractor Facility or the performance by the Contractor of its obligations under this Agreement if such decision or action is due in whole or in part to the activities of the Contractor which have caused complaints from third parties about the activities of the Contractor, provided that based on the complaints a competent regulatory authority agency has determined that a Nuisance Condition with regard to odor has been created.

(b) Upon the occurrence of an Uncontrollable Circumstance the Contractor may transport Biosolids delivered to it hereunder to a Disposal Facility as provided in Section 3.2(f); provided, however, that in such case the Contractor shall bear sole responsibility for obtaining any modifications to the County Permits or any other governmental approvals required such that the actions of the Contractor under this Section 8.1(b) do not result in a violation of the County Permits.

(c) Each Party shall be excused for its failure to perform in accordance with this Agreement any obligation that cannot be performed due to an Uncontrollable Circumstance; provided, however, that in no event shall Uncontrollable Circumstances relieve (i) either Party's obligation to make a payment when due hereunder, or (ii) the Contractor's obligation to accept and process all Unstabilized Biosolids and timely transport and remove all Stabilized Biosolids tendered for delivery in accordance with this Agreement.

(d) A Party claiming the benefit of this Article 8 shall give prompt written notice to the other Party and shall use reasonable efforts to promptly overcome the Uncontrollable Circumstance and resume full and timely performance hereunder.

(e) If the Unstabilized Biosolids fail to meet the definition of Specification-Biosolids for any other reason, they will be handled in compliance with Applicable Law and Regulations, after consultation with the County and the additional costs added to the Service Fee as an Uncontrollable Circumstance Cost.

(f) If the Contractor is required to perform testing, in addition to testing required by Applicable Laws or Regulations as of July 2017, whether as a condition of a future distribution permit or permit amendment any current permit issued by the State of Maryland or as a result of other change in law or regulation, the costs of such additional tests will be added to the Service Fee as an Uncontrollable Circumstance Cost.

## **ARTICLE 9 DEFAULT AND TERMINATION**

### **SECTION 9.1      Remedies for Default**

(a) If either Party breaches one or more of its material obligations under this Agreement, the right of the other Party to recover damages or to be reimbursed ordinarily constitutes an adequate remedy. Therefore, neither Party may terminate this Agreement unless an Event of Default on the part of any of the other Party has occurred and is continuing.

(b) The Parties agree that the specific provisions for Performance Damages set forth in this Agreement are intended to measure as accurately as possible the direct damages of the Party entitled to such damages and where Performance Damages are provided they shall be the exclusive monetary remedy to the party claiming the remedy. Except as specifically set forth as a component of Performance Damages described in this Agreement, no Party may recover lost profits, lost revenues, indirect, consequential or punitive damages as a result of an Event of Default or a violation of this Agreement by the other Party.

### **SECTION 9.2      Events of Default by the Contractor**

Each of the following constitutes an Event of Default on the part of the Contractor:

(a) The Contractor fails to pay any amount it is required to pay under this Agreement within thirty (30) days after receipt by the Contractor of written demand from the County accompanied by written notice stating that unless the delinquent amount is paid within thirty (30) days the failure will constitute an Event of Default;

(b) The Contractor persistently or repeatedly fails or refuses to substantially fulfill any of its material obligations under this Agreement. No failure or refusal on the part of the Contractor described in this clause (b) shall constitute an Event of Default unless and until:

(i) the County has given written notice to the Contractor stating that in its opinion a particular default or defaults (described in reasonable detail in such notice) exist that, unless corrected, constitute a material breach of this Agreement on the part of the Contractor; and

(ii) the Contractor has neither corrected such default nor initiated reasonable steps to correct it within a reasonable period of time (which must in any event be not less than five days from the date of the notice given pursuant to clause (i) of this Section 9.2(b)); provided, however, that if the Contractor has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as the Contractor is continuing to take reasonable steps to correct it.

(c) The occurrence of a decision or action by any governmental, local or other competent authority, agency or institution which adversely affects the Contractor Facility or the performance by the Contractor of its obligations under this Agreement if such decision or action is due in whole or in part to the activities of the Contractor or the complaints of third parties relating to the activities of the Contractor. No decision or action described in this clause (c) shall constitute an Event of Default unless and until:

(i) the County has given written notice to the Contractor stating that in its opinion a particular default or defaults (described in reasonable detail in such notice) exist that, unless corrected, constitute a material breach of this Agreement on the part of the Contractor; and

(ii) the Contractor has neither corrected such default nor initiated reasonable steps to correct it within a reasonable period of time (which must in any event be not less than five days from the date of the notice given pursuant to clause (i) of this Section 9.2(c)); provided, however, that if the Contractor has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as the Contractor is continuing to take reasonable steps to correct it.

(d) If, by order of a court of competent jurisdiction, a receiver or liquidator or custodian or trustee of the Contractor or of a major part of either of their property is appointed and is not discharged within sixty (60) days, or if, by decree of such a court, the Contractor is adjudicated insolvent, or a major part of either of their property is sequestered, and such decree has continued undischarged and unstayed for sixty (60) days after the entry of such decree, or if a petition to reorganize the Contractor pursuant to the Federal Bankruptcy Code or any other similar statute applicable to the Contractor, as now or hereinafter in effect, is filed against the Contractor and is not dismissed within sixty (60) days after such filing;

(e) If the Contractor is adjudicated bankrupt or files a petition in voluntary bankruptcy under any provision of any bankruptcy law or consents to the filing of any bankruptcy or reorganization petition against the Contractor under any such law, or (without limitation of the generality of the foregoing) files a petition to reorganize the Contractor pursuant to the Federal Bankruptcy Code or any other similar statute applicable to the Contractor, as now or hereafter in effect; or

(f) If the Contractor makes an assignment for the benefit of creditors, or admits in writing an inability to pay debts generally as they become due, or consents to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of the Contractor or of a major part of the Contractor's property.

**SECTION 9.3      Events of Default by the County**

Each of the following constitutes an Event of Default on the part of the County:

(a)      The County fails to pay any amount it is required to pay under this Agreement within thirty (30) days after receipt by the County of written demand from the Contractor accompanied by written notice stating that unless the delinquent amount is paid within thirty (30) days the failure will constitute an Event of Default;

(b)      The persistent or repeated failure or refusal by the County substantially to fulfill any of its material obligations under this Agreement. No failure or refusal on the part of the County described in this clause (b) constitutes an Event of Default unless and until:

(i)      the Contractor has given prior written notice to County stating that in its opinion a particular default or defaults (described in reasonable detail in such notice) exists and unless corrected, constitute a material breach of this Agreement on the part of the County; and

(ii)     the County has neither corrected such default nor initiated steps to correct it within a reasonable period of time (which in any event must be not less than five (5) days from the date of the notice given pursuant to clause (i) of this Section 9.3(b), provided that if the County has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as the County is continuing to take reasonable steps to correct it.

**SECTION 9.4      Termination on Default**

(a)      Either Party may terminate this Agreement while an Event of Default of the other Party exists. The right of termination for an Event of Default may be exercised only by a Notice of Termination (the "Notice of Termination") given to the Party in default. The proper exercise of the right of termination is in addition to and not in substitution for, such other remedies, whether damages or otherwise, of the Party exercising the right of termination.

(b)      Neither Party's right to termination for default may be exercised while dispute resolution proceedings under this Agreement or pursuant to judicial action, are pending or underway regarding the reasons for, or validity of, the exercise of a Party's right to terminate for default.

**SECTION 9.5      Termination for Convenience**

The County may terminate this Agreement for its convenience if at any time the County determines that such termination is in the best interest of the County. If this Agreement is terminated for convenience pursuant to this Section 9.5, the County will pay to the Contractor an amount equal to the Contractor's additional Actual Costs incurred by the Contractor as a direct result of such termination, excluding any anticipatory profits not earned up to the date of termination. Any such amount shall be reduced to reflect any revenues received or costs avoided by the Contractor as a result of such termination. "Actual Costs" shall mean those costs for which

the Contractor has delivered to the County the following items: a certificate signed by an authorized officer of the Contractor, setting forth the amount of such cost and the reason why such cost is properly chargeable to the County, and stating that such cost is an arm's length and competitive amount owed as a result of such termination in order to reflect actual costs incurred thereby and not lost or unearned profits by either party thereunder. For purposes of clarification, any termination of this Agreement by the County pursuant to any other provision of this Agreement, which permits termination, shall in no event constitute a termination pursuant to this Section 9.5.

**SECTION 9.6 Survival of Certain Rights and Obligations**

No termination of this Agreement shall limit or otherwise affect (i) the rights and obligations of either Party that have accrued before the date of such termination, or (ii) any provision of this Agreement that by its terms survives termination. If necessary to give force and effect to obligations surviving termination of this Agreement, other applicable provisions hereof shall survive termination of this Agreement solely for such purpose.

**ARTICLE 10  
INSURANCE**

**SECTION 10.1 Types of Insurance for the Contractor**

The Contractor shall obtain and maintain, or cause to be obtained and maintained, the Required Insurance in the forms approved by the County and otherwise in accordance with Schedule 7 of this Agreement. Any increases in the deductible limits from those provided for in Schedule 7 with respect to Required Insurance or the cost thereof, shall not increase the liability of, or the amount of any payment required to be made by, the County under this Agreement.

**SECTION 10.2 Delivery of Policies; Certain Required Provisions**

(a) The Contractor must deliver to the County copies of all certificates for Required Insurance and any policy amendments and policy renewals and, upon the reasonable request of the County, any additional information relating to Required Insurance. Each liability policy must name "Howard County, MD, its elected and appointed officials, officers, employees, agents, successors and assigns" as Additional Insured and require the insurer to provide the County thirty (30) day's prior written Notice of Termination or cancellation except 10 days' notice for non-payment of premium.

(b) The Contractor must use only responsible insurance companies of recognized standing which are authorized to do business in Maryland as providers of all Required Insurance. The Contractor must carry all Required Insurance with insurance companies rated at least "A-" or its equivalent by Best's Key Rating or another national rating organization or other comparable insurance companies acceptable to the County. The Contractor may affect Required Insurance by endorsement of blanket insurance policies.

(c) The Contractor must not take out separate insurance concurrent in form or contributing in the event of loss with Required Insurance if the existence of such insurance reduces amounts payable under Required Insurance. The Contractor must immediately notify the County whenever it applies for any separate insurance and must promptly deliver the policy or policies evidencing the separate insurance to the County.

(d) The Contractor must submit to the appropriate insurer timely notices and claims of all losses insured under any Required Insurance policy, pursue such claims diligently and comply with all terms and conditions of Required Insurance policies. The Contractor must promptly give the County copies of all notices and claims of loss and any documentation or correspondence related to such losses that are related to the performance of this Agreement. The Contractor must make all policies for Required Insurance, policy amendments and other related insurance documents available for inspection and photocopying by the County on reasonable notice.

## **ARTICLE 11 INDEMNIFICATION**

### **SECTION 11.1 Indemnification by the Contractor**

(a) The Contractor shall indemnify and hold harmless the County, and its respective agents, officers, elected officials, and employees, from and against all liability, suits, judgments, costs, and expenses, including attorney's fees, arising from the activities by the Contractor or by any of its agents, contractors, employees, licensees or invitees under this Agreement to the extent such liability, suits, judgments, costs and expenses, including attorney's fees, are caused by the Contractor or by any of its agents, contractors, employees, licensees or invitees, any breach or default by the Contractor in performing its obligations under the provisions of this Agreement or Applicable Law; any act or omission of the Contractor or any of its agents, contractors, employees, licensees, or invitees, whether or not wrongful; and any injury to or death of any person or damage to any property occurring on or about the County's property arising from any act or omission of the Contractor or any of its agents, contractors, employees, licensees or invitees.

(b) The Contractor agrees to indemnify, save harmless and defend the County and its respective officials, officers, employees and agents, from and against any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incident thereof (including costs of defense, settlement and reasonable attorneys' fees), which the County may incur, become responsible for or pay as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, including without limitation discharges or spillage, or any violation of governmental laws, regulations or orders, to the extent caused, in whole or in part, by a breach of any term, provision, representation or warranty of this Service Agreement or any negligent act or omission or willful misconduct of the Contractor, or its officers, employees or agents, or by the management of Unacceptable Waste of unknown origin delivered to any Facility. This indemnification is not to be deemed as a waiver of any immunity or defense, which may exist in any action against the County.

(c) The Contractor shall also indemnify, defend, hold harmless and waive any claim for contribution against the County, and its respective officials, officers, agents and employees, for any environmental or pollution liability claim arising from the performance of the Contractor or its officers, employees, agents or subcontractors, under this Agreement, irrespective of whether such performance is negligent or willful or breaches any term or provision of this Agreement.

## **SECTION 11.2 Indemnification by the County**

With the exception of the provisions of Section 11.1, the County shall be responsible for its own activities relating to the performance of its obligations under the Agreement; for the acts and omissions of its agents, contractors, employees and licensees or invitees; and for the maintenance and safety of its own property; and shall investigate and defend all claims and suits arising out of those matters. In the event that liability, suits, and/or judgments arise from concurrent or joint conduct of the Parties, each Party shall be liable in proportion to its relative degree of fault as agreed upon by the Parties or as determined by special verdict at trial. This indemnification is not to be deemed as a waiver of any immunity or defense, which may exist in any action against the County. The County's indemnity obligations shall be subject to the Maryland Local Government Torts Claims Act and future appropriations by the Howard County Council.

## **ARTICLE 12 PERFORMANCE BOND**

### **SECTION 12.1 Performance Bond**

On or before the Effective Date, and if applicable, the first day of the First Extension Period and the first day of the Second Extension Period, the Contractor shall deliver to the County a Performance Bond substantially in the form of Schedule 5, executed by itself as principal and a surety rated by Bests Key Rating as A- or better. The Performance Bond shall name the County as beneficiaries. The Performance Bond shall be released upon termination of this Agreement so long as the Contractor is not in default hereunder and the Performance Bond is not being drawn upon by the County.

### **SECTION 12.2 Term; Amount**

(a) The Contractor shall provide a Performance Bond during each of the Initial Term, the First Extension Period, and the Second Extension Period. The principal amount of such bond shall be \$2,500,000. The Contractor may satisfy its obligations under this Section 12.2(a) by providing renewable Performance Bonds having a term of not less than one (1) year, each such Performance Bond to be in the principal amount of \$1,000,000.

(b) In the event that the Contractor fails for any reason to maintain the Performance Bond in full force and effect during the Term, then in addition to any other available remedies hereunder, on or before the first day of the calendar month next succeeding the calendar month in which such failure occurs, the Contractor shall pay to the County an amount equal to \$1,000,000 (the "Performance Bond Damages").

**ARTICLE 13  
MISCELLANEOUS**

**SECTION 13.1      Assignment**

Neither Party may assign this Agreement without the prior written consent of the other Party.

**SECTION 13.2      Notices**

All notices, designations, consents, approvals, and other communications required, permitted or otherwise delivered under this Agreement must be in writing and may be telexed, cabled or delivered by hand, mailed by first class registered or certified mail, return receipt requested, postage prepaid, or dispatched by next day delivery service and, in any case, must be addressed as follows:

Howard County Government, Bureau of Utilities  
Little Patuxent Water Reclamation Plant  
8900 Greenwood Place

Savage, Maryland 20763  
Telephone: (410) 313-1200  
Facsimile: (410) 313-1207

If to the Contractor Representative:

<Insert Contractor Contact Information>

Either Party may change the address to which its communications are delivered by notice to the other Party. Any communications given by mail in accordance with this Section 13.2 are deemed to have been given five (5) Business Days after the date of mailing; communications given by any other means (including, without limitation, next day delivery service) are deemed to have been given when delivered.

**SECTION 13.3      Entire and Complete Agreement**

This Agreement (including all Schedules to this Agreement) constitutes the entire and complete agreement of the Parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous understandings, arrangements, commitments and- representations, all of which, whether oral or written, are merged into this Agreement.

**SECTION 13.4      Binding Effect**

This Agreement shall bind and benefit the Parties to this Agreement and any successor or permitted assignee. In addition, by execution of this Agreement, Contractor is binding itself and its successors and assigns to be joint and sever all liability to the County for the performance by the Contractor of its obligations under this Agreement.

**SECTION 13.5      Other Documents**

Each Party shall execute and deliver any instruments and perform any acts that may be necessary or reasonably requested by any other Party in order to give full effect to this Agreement.

**SECTION 13.6      Applicable Law**

The laws of Maryland shall govern the validity, interpretation, construction and performance of this Agreement.

**SECTION 13.7      Headings**

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

**SECTION 13.8      Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

**SECTION 13.9      Amendment or Waiver**

Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by a written instrument signed by the Party against whom enforcement of such change, modification, amendment or waiver is sought.

**SECTION 13.10     Confidential Information**

The rights and obligations of the Parties set forth herein with respect to Confidential Information are subject to Applicable Law, including Title 10, Subtitle 6 of the State Government Article of the Annotated Code of Maryland, as amended.

**SECTION 13.11     Severability**

In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith

and agree as to such amendments, modifications or supplements of or to this Agreement, that to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

**SECTION 13.12 Relationship of the Parties**

Neither Party has any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other Party and nothing in this Agreement is deemed to constitute one Party a partner, agent or legal representative of the other Party or to create any fiduciary relationship between the Parties.

**SECTION 13.13 Effect of County Approvals**

(a) No review, comment or approval by the County under this Agreement affects the rights, remedies, powers or privileges of the County in connection with (i) licenses, permits, reviews or approvals pursuant to Applicable Law, (ii) enactment, interpretation or enforcement of any Applicable Law, (iii) any of its other governmental functions, or (iv) matters not related to this Agreement.

(b) No review, comment or approval, nor any failure to review, comment or give approval, by the County under this Agreement, relieves the Contractor of any of its obligations under this Agreement, or imposes any liability upon the County; provided that for purposes of this Section 13.13, the County will be deemed not to have objected to materials, information or proposals presented by the Contractor in the form and with all supporting documents required by this Agreement and concerning which the County has not responded within the time period prescribed by this Agreement for comment, approval or similar action by the County.

**SECTION 13.14 Dispute Resolution**

(a) Subject to Applicable Law, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, which the Parties are unable to resolve themselves shall be settled by non-binding mediation. The parties shall select a mediator acceptable to both parties and each party shall bear their own costs. No individual who is, or has at any time been, an officer, employee or consultant of either Party shall be a mediator without the express written consent of both Parties.

(b) In the event the parties are unable to resolve a dispute by mediation, the controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be finally settle by a court of competent jurisdiction.

**SECTION 13.15 Nondiscrimination**

(a) The Contractor must not discriminate or permit discrimination against any person because of race, color, religion, national origin or sex. This provision prohibiting discrimination is a material term of this Agreement.

(b) The Contractor agrees to comply with the nondiscrimination in employment policies in County contracts as required by Applicable Law, as well as all other applicable state and federal laws and regulations regarding employment discrimination. The Contractor assures the County that, in accordance with Applicable Law, it does not, and agrees that it will not discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or handicap.

(c) The Contractor must include the provisions of this Section in all subcontracts.

### **SECTION 13.16 Minority Consideration**

The Contractor shall use its best efforts to obtain minority business enterprises, as defined in, the *Howard County Maryland Minority Business Program*, as set forth in Schedule 8, in the performance of its obligations under this Agreement.

### **SECTION 13.17 Estoppel Certificates**

Each Party, upon the reasonable request of the other Party, shall execute, acknowledge and deliver a statement in writing (i) certifying that this Agreement is unmodified and is in full force and effect (or if there have been modifications, that the Agreement is in full force and effect as modified and stating the modifications); and (ii) stating whether or not to the best knowledge of the signer of such certificate the signing Party is in default in performance of any covenant, agreement or condition contained in this Agreement and, if so, specifying each such default of which the signer may have knowledge.

### **SECTION 13.18 County Changes**

(a) Upon written request by the County, the Contractor shall make any alteration, addition or modification to the operating procedures or responsibilities of the Contractor ("County Change") unless such County Change will or is reasonably likely to result in a violation of any Applicable Law.

(b) The County shall provide the Contractor with a written description of any proposed County Change. Within thirty (30) days of the Contractor's receipt of such written description the Contractor shall provide notice to the County of (i) any associated cost adjustment (as described in Section 13.19(c) below) or modification to this Agreement which the Contractor anticipates will be necessary as a result of the proposed County Change and (ii) any objections of the Contractor to the proposed County Change. The Parties shall negotiate in good faith to reach an agreement on the proposed County Change. In the event the County elects to proceed, the County Change shall be implemented upon the issuance by the County of a written authorization to proceed ("Change Order"). In the event that the Parties disagree on all or any part of the scope or price adjustment related to the proposed County Change, then the Contractor shall immediately implement any non-disputed component of the Change Order and the dispute shall be resolved in accordance with Section 13.14 and such resolution shall be reflected in an amended Change Order.

(c) In connection with any Change Order in accordance with Section 13.19(b), the Service Fee shall be adjusted to reflect the reasonably anticipated cost increase or reasonably anticipated cost savings reasonably expected to be incurred or realized by the Contractor as a result of such County Change. Any such adjustment of the Service Fee shall be included in the Change Order.

IN WITNESS WHEREOF, each of the Parties has duly executed this Agreement, or has caused this Agreement to be duly executed on its behalf, as of the date first written above.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Agreement PA-XX-XXXX.

WITNESS:

**[LEGAL NAME OF CONTRACTOR]**

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
[Insert Name]

WITNESS:

**HOWARD COUNTY, MARYLAND** a body  
corporate and politic

\_\_\_\_\_  
Lonnie R. Robbins  
Chief Administrative Officer

\_\_\_\_\_  
Allan H. Kittleman  
County Executive

APPROVED FOR LEGAL SUFFICIENCY  
this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Gary W. Kuc  
County Solicitor

REVIEWING ATTORNEY:

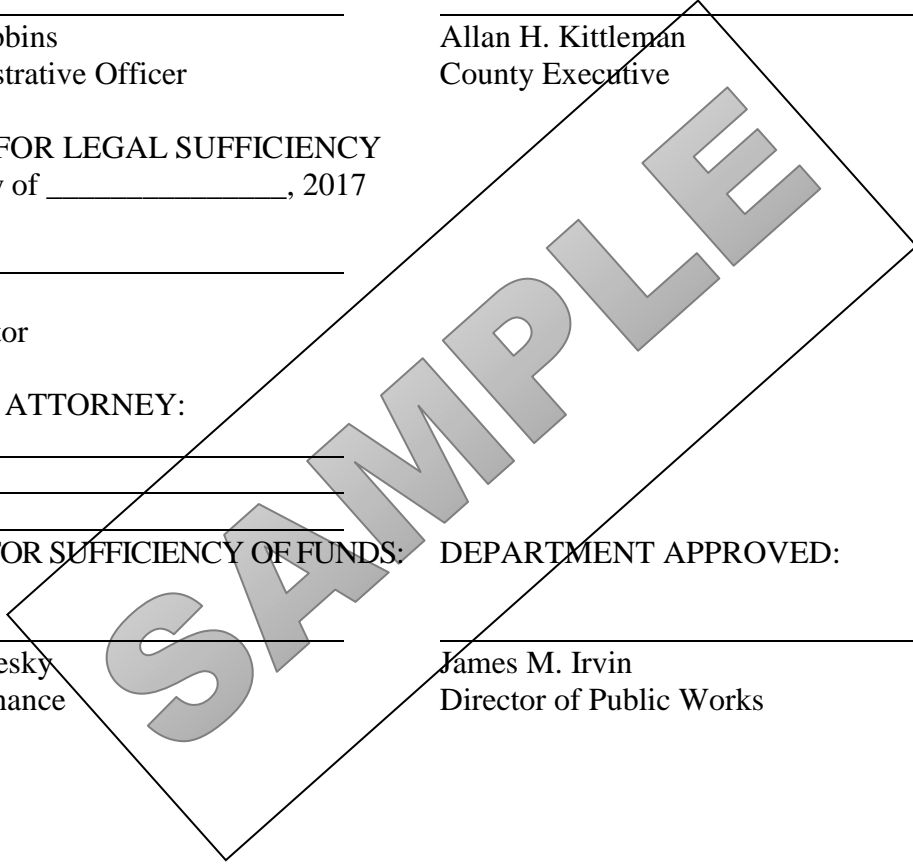
\_\_\_\_\_  
Type Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED FOR SUFFICIENCY OF FUNDS:

DEPARTMENT APPROVED:

\_\_\_\_\_  
Stanley J. Milesky  
Director of Finance

\_\_\_\_\_  
James M. Irvin  
Director of Public Works



## SCHEDULE 1

## DEFINITIONS

**"Actual Costs"** has the meaning specified in Section 9.5.

**"Agreement"** means this Service Agreement including all Schedules hereto.

**"Applicable Law"** means any law, regulation, permit, approval requirement or order of any federal, state or local agency, court or other body applicable from time to time to the acceptance, transportation, processing and marketing of Biosolids under this Agreement, the ownership, construction, operation and maintenance of the Contractor Facility, or the performance of any obligations under this Agreement or any other agreement entered into in connection herewith.

**"Beneficial Use"** and **"Beneficially Used"** means Biosolids that are either: (i) packaged (bag, box or other container) in individual packages and sold as a final product; (ii) sold in bulk load to persons who (A) use the material in the course of doing business or (B) further process the material for sale, or (iii) utilized as fertilizer, soil amendment, or soil substitute in agricultural, reclamation, landscaping or horticulture application.

**"Biosolids"** means all sewage sludge originating at the LPWRP processed, transported or disposed of by the Contractor.

**"Business Day"** means a calendar day excluding Saturdays, Sundays and any Holiday. In the event that an obligation to be performed under this Agreement falls due on a Saturday, Sunday or a Holiday, the obligation shall be deemed due on the next Business Day thereafter.

**"Class B Biosolids"** means sewage sludge processed by the Contractor at the LPWRP and which meets 40 C.F.R. Parts 503 criteria for Class B pathogen reduction and vector attraction reduction and applicable requirements of the State of Maryland.

**"Contractor"** has the meaning specified in the introduction to this Agreement, and includes its successors and permitted assigns hereunder.

**"Contractor Facility or Facilities"** means any onsite materials, equipment, and structures at the LPWRP owned by the Contractor and used in accepting, processing, or transporting Biosolids.

**"Confidential Information"** means information delivered to a Party (the "Receiving Party") by the other Party (the "Delivering Party") or on the Delivering Party's behalf in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by the Receiving Party as being confidential information of the Delivering Party, provided that such term does not include information that (a) was publicly known or otherwise known to the Receiving Party prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by the Receiving Party or any person acting on the Receiving Party's behalf or (c) otherwise becomes known to the Receiving Party other than through disclosure by the Delivering Party.

**"County"** has the meaning specified in the Recitals hereto, and includes its successors and assigns.

**"County Permits"** has the meaning specified in Section 5.4.

**"Delivery Hours"** has the meaning specified in Section 3.2

**"Disposal Facility"** means a landfill or other acceptance facility, which does not meet the definition of Beneficial Use herein.

**"Effective Date"** means the date on which the all of the following conditions are met: the County and the Contractor have signed the Agreement; the County Council of Howard County has approved the Assignment Agreement.

**"Event of Default"** has the meaning specified in Article 9.

**"Federal Bankruptcy Code"** means the Federal Bankruptcy Code as in effect from time to time.

**"First Extension Period"** has the meaning specified in Section 2.2.

**"Governmental Authority"** means the United States of America, or any state or other political subdivision thereof, including, without limitation, any municipality, township or county, and any domestic entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

**"Holiday"** means any weekday that national banks located in Maryland are not open for business.

**"Initial Service Date"** has the meaning specified in Section 2.3.

**"Initial Term"** has the meaning specified in Section 2.1.

**"Temporary Lime Stabilization System"** means all equipment used in the lime stabilization process, after the Unstabilized Biosolids leave the centrifuge, including associated material handling equipment, such as conveyors, lime silos, lime blowers, and the loading area

**"Loading Area"** shall mean the premises identified on Schedule 2.

**"Notice of Non-Extension"** has the meaning specified in Section 2.2.

**"Nuisance Condition"** means a condition determined to be a nuisance by a competent regulatory authority under local, state, or other Applicable Law.

**"Notice of Termination"** has the meaning specified in Section 9.4. "Parties" has the meaning set forth in the Introduction to this Agreement. "Party" has the meaning set forth in the Introduction to this Agreement.

**"Performance Bond"** means the bond to be provided to the Authority and the County on behalf of the Contractor as provided in Article 12.

**"Performance Bond Damages"** has the meaning specified in Section 12.2(b).

**"Performance Damages"** has the meanings specified in Article 6.

**"Person"** shall mean an individual, partnership, corporation, limited liability Contractor, association, trust, unincorporated organization, or a Governmental Authority or agency or political subdivision thereof.

**"Processing Fee"** has the meaning specified in Section 7.1.

**"Required Insurance"** has the meaning specified in Schedule 7.

**"Service Fee"** has the meaning specified in Section 7.1.

**"Specification Biosolids"** has the meaning specified in Section 5.1.

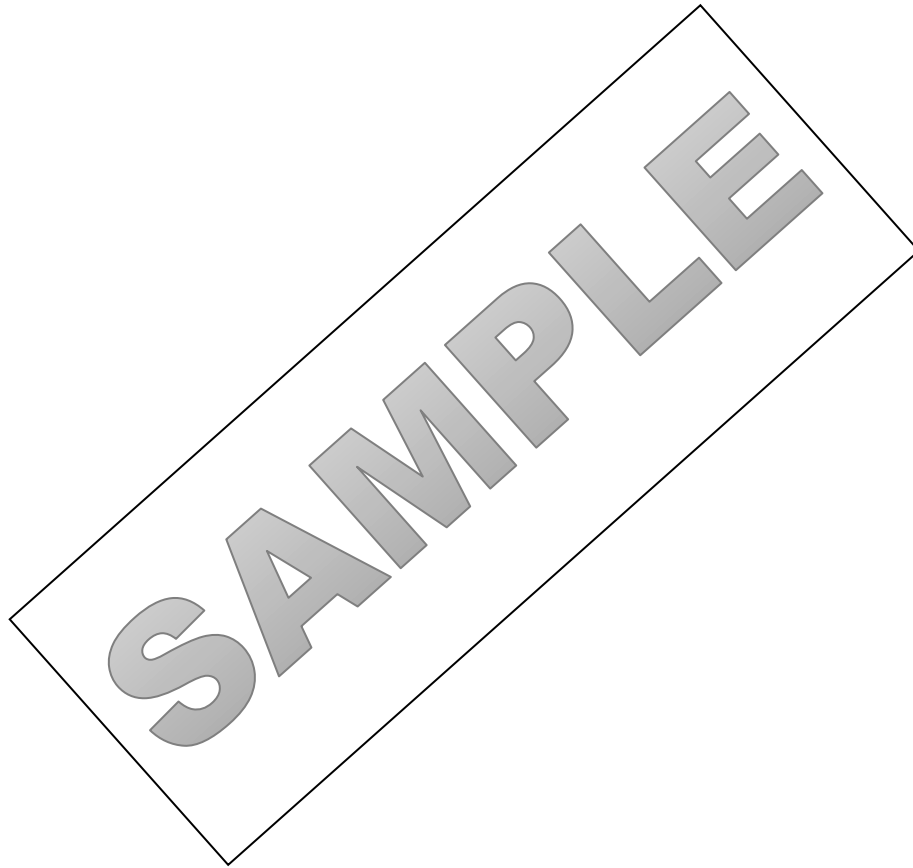
**"Stabilized Biosolids"** means Biosolids originating from the LPWRP and stabilized by anaerobic digestion at the Plant or by the Contractor's equipment meeting Class A or Class B standards as defined by EPA and MDE.

**"Unstabilized Biosolids"** means dewatered sewage delivered by the County to the Contractor that does not meet Class A or Class B regulations.

**"Term"** means the period of the Initial Term and all extensions under Section 2.2.

SCHEDULE 2

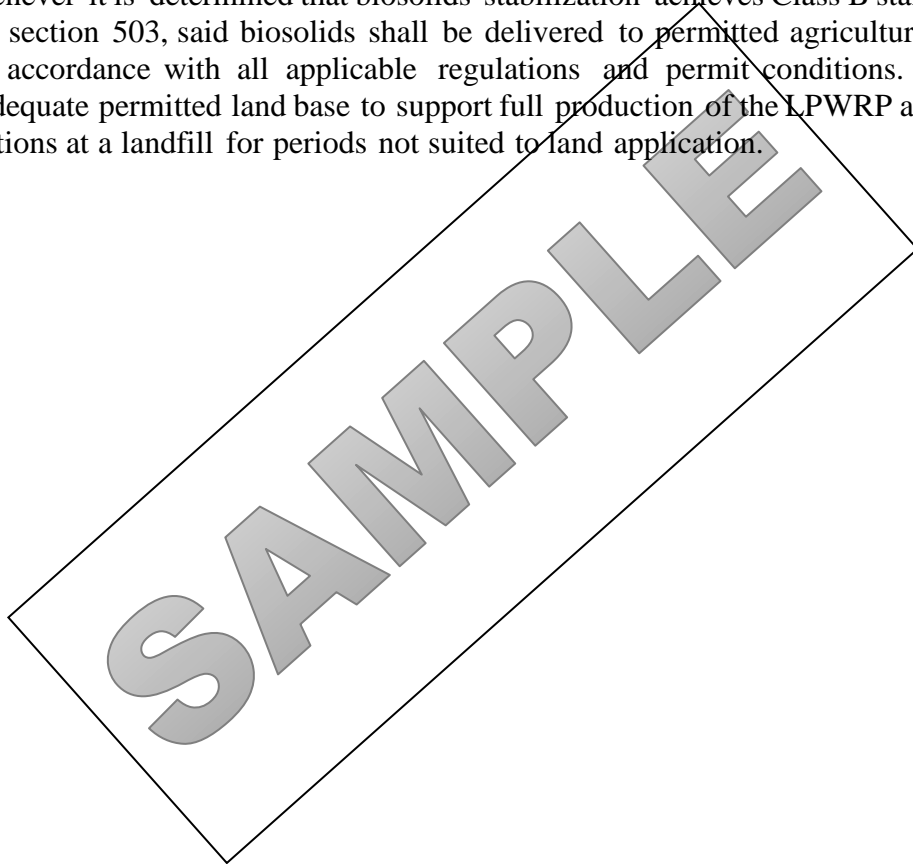
SITE PLANS AND LOADING AREA



### SCHEDULE 3

#### CLASS B BIOSOLIDS DISTRIBUTION PROTOCOL

Whenever it is determined that biosolids stabilization achieves Class B standards as defined by 40 CFR section 503, said biosolids shall be delivered to permitted agricultural sites and land applied in accordance with all applicable regulations and permit conditions. Contractor will maintain adequate permitted land base to support full production of the LPWRP and shall maintain disposal options at a landfill for periods not suited to land application.



SCHEDULE 4

CONTRACT AFFIDAVIT

**Contract Affidavit**

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title:    ) the duly authorized representative of (business) (contractor) and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT I FURTHER AFFIRM THAT:

The business named above is a (domestic ---) (foreign ----) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: Contractor

Address:



SCHEDULE 5

FORM OF PERFORMANCE BOND

Bond No.

Principal:

Business Address:

Surety:

Penal Sum of Bond:

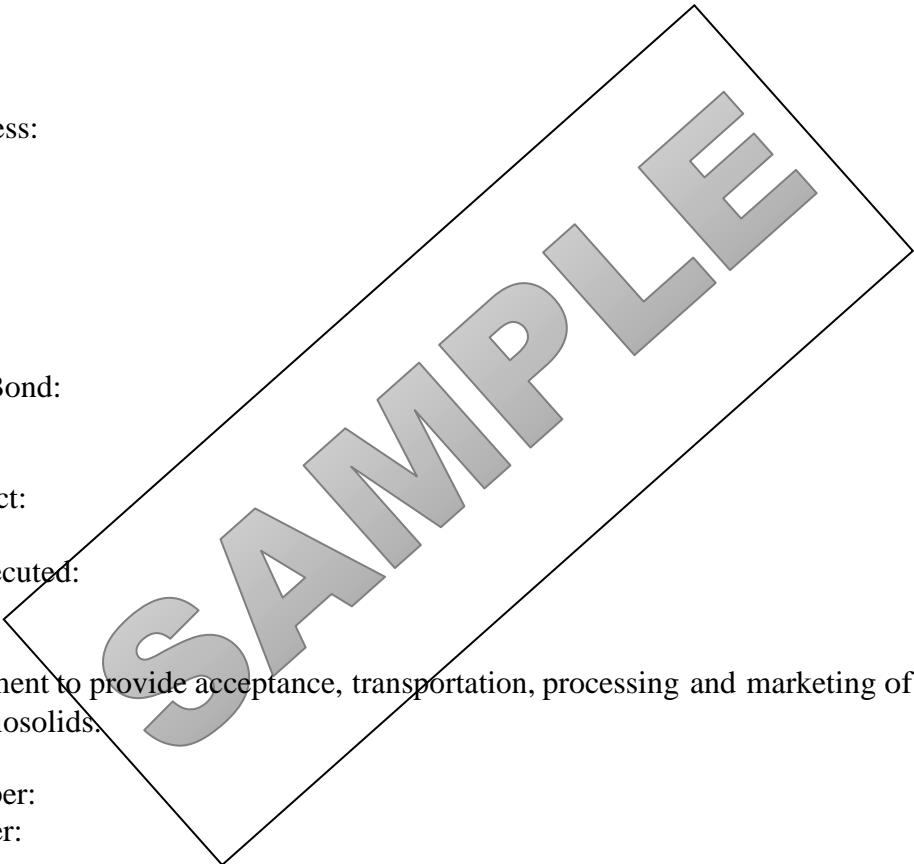
Date of Contract:

Date Bond Executed:

Service Agreement to provide acceptance, transportation, processing and marketing of Class A or B Biosolids.

Contract Number:

Control Number:



## SCHEDULE 6

## HOWARD COUNTY CHARTER AND CODE REFERENCES TO ETHICS

***Charter Section 901. Conflict of Interest.***

(a) **Prohibitions.** No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

(b) **Rules of construction; exceptions by Council.** The provisions of this Section shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law.

In order, however, to guard against injustice, the Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business in connection with any person, firm or corporation dealing with the County, if, on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine that such stock ownership or connection does not violate the public interest.

The County Council may, by ordinance, delegate to the Howard County Ethics Commission the power to make such determinations and to authorize the ownership or connection. Any ordinance which delegates this power shall provide for procedures including a public hearing, and shall establish criteria for determining when the ownership or connection does not violate the public interest.

(c) **Penalties.** Any officer or employee of the County who willfully violates any of the provisions of this Section shall forfeit his office. If any person shall offer, pay, refund or rebate any part of any fee, commission, or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one or more than six months or a fine of not less than \$100.00 or more than \$1,000.00, or both. Any contract made in violation of this Section may be declared void by the Executive or by resolution of the Council. The penalties in this Section shall be in addition to all other penalties provided by law.

***Code Section 4.119. Ethics and Fair Employment Practices.***(a) **Conflict of Interest**

Bidders, vendors, purchasers and county employees involved in the purchasing process shall be governed by the provisions of the Howard County Charter and Howard County law regarding conflict of interest. No vendor shall offer a gratuity to an official or employee of the county. No official or employee shall accept or solicit a gratuity.

(b) **Discouragement of Uniform Bidding.**

(1) It is the policy of the county to discourage uniform bidding by every possible means and to endeavor to obtain full and open competition on all purchases and sales.

(2) No bidder may be a party with other bidders to an agreement to bid a fixed or uniform price.

(3) No person may disclose to another bidder, nor may a bidder acquire, prior to the opening of bids, the terms and conditions of a bid submitted by a competitor.

(c) **Fair Employment Practices**

(1) Bidders, vendors and purchasers may not engage in unlawful employment practices as set forth in Subtitle 2 "Human Rights" of Title 12 of the Howard County Code, Subtitle 6 of Title 20 of the State Government Article, Annotated Code of Maryland or Sections 703 and 704 of Title VII of the Civil Rights Act of 1964 as amended. Should any bidders, vendors or purchasers engage in such unlawful employment practices, they shall be subject to being declared irresponsible or being debarred pursuant to the provisions of this subtitle.

(2) The Howard County Office of Human Rights shall notify the county purchasing agent when any bidder is found, by a court of competent jurisdiction, to have engaged in any high unlawful employment practices.

(3) If any bidder has been declared to be an irresponsible bidder for having engaged in an unlawful employment practice and has been debarred from bidding pursuant to this subtitle, the Howard County Office of Human Rights shall review the employment practices of such bidder after the period of debarment has expired to determine if violations have been corrected and shall, within 30 days, file a report with the county purchasing agent informing the agent of such corrections before such bidder can be declared to be a responsible bidder by the County Purchasing agent.

(4) Payment of subcontractors. All contractors shall certify in writing that timely payments have been made to all subcontractors supplying labor and materials in accordance with the contractual arrangements made between the contractor and the subcontractors. No contractor will be paid a second or subsequent progress payment or final payment until such written certification is presented to the county purchasing agent.

**Code Section 22.204. - Prohibited Conduct and Interests.**

(a) **Participation Prohibitions.**

(1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest.

(ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

a. A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;

b. A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

c. A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment;

d. If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

e. An entity, doing business with the County, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

f. A business entity that:

1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and

2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.

(2) A person who is disqualified from participating under paragraph 1. of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

(3) The prohibitions of paragraph 1 of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(b) **Employment and Financial Interest Restrictions.**

(1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by or have a financial interest in any entity:

a. Subject to the authority of the official or employee or the County agency, board, commission with which the official or employee is affiliated; or

b. That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) The prohibitions of paragraph (1) of this subsection do not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission; or

(iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(c) **Post-Employment Limitations and Restrictions.**

(1) A former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) For a year after the former member leaves office, a former member of the County Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(d) **Contingent Compensation.** Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

(e) **Use of Prestige of Office.**

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(f) **Solicitation and Acceptance of Gifts.**

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the County office, agency, board or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4) (i) Subsection (4)(ii) does not apply to a gift:

a. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

c. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(ii) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

a. Meals and beverages consumed in the presence of the donor or sponsoring entity;

b. Ceremonial gifts or awards that have insignificant monetary value;

c. Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value;

d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

f. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;

g. Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related, in any way, to the official's or employee's official position.

(g) **Disclosure of Confidential Information.** Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(h) **Participation in Procurement.**

(1) An individual or a person that employs an individual who assists a County, agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

## SCHEDULE 7

## REQUIRED INSURANCE

Section 1. Types of Insurance

On and after the Effective Date, the Contractor shall obtain and keep in force the following minimum insurance coverage with insurance companies licensed and qualified to do business in the State of Maryland rated at least "A-" or its equivalent by Best's Key Rating Guide, evidenced by a certificate of insurance and if requested, copies of all insurance policies. The Contractor and its subcontractors must submit evidence of required insurance prior to performance.

(a) Workers' Compensation and Employers' Liability

The Contractor shall maintain such insurance as required by Maryland Law covering all of its employees as will protect them and save the Contractor and the County harmless from claims arising from the Contractor and its subcontractors. The Company shall maintain Employers' Liability Coverage in the following amounts: \$1,000,000 for each accident; \$1,000,000 for each disease per employee; \$1,000,000 for bodily injury by disease policy aggregate.

(b) Commercial General Liability Insurance

The Contractor shall purchase and maintain a general liability policy which will protect Contractor and the County from liability for any personal injury, including death or property damage which may arise from its operations or the operations of its Contractor and subcontractors or by anyone directly or indirectly employed in the work by either of them under this Agreement, with minimum coverage and limits as follows:

- (1) Bodily injury and property damage - \$1,000,000 combined single limit each occurrence
- (2) Aggregate for products and completed operations - \$2,000,000 combined single limit
- (3) General aggregate (on a per project basis) \$2,000,000 combined single limit
- (4) Per occurrence for personal & advertising injury liability - \$1,000,000
- (5) Coverage for liability arising from the actions of independent contractors or subcontractors;
- (6) Coverage for liability arising from products and completed operations with such coverage to be maintained for five (5) years after completion of the contract;
- (7) Coverage for contractual liability including protection for Contractor from bodily injury and property damage claims assumed under contract;
- (8) There shall be no exclusions for explosion, collapse or underground exposures;
- (9) Contractor's policy shall name "Howard County, MD, its elected and appointed officials, officers, employees, agents, successors and assigns" as Additional Insured.

(c) Business Auto Liability and Physical Damage Coverage

The Contractor shall maintain liability coverage, which extends to all owned, non-owned, leased, rented or borrowed vehicles for each accident involving bodily injury and or property damage. Coverage must extend to include all monetary state and federal regulations as well as respects uninsured/underinsured motorists coverage, ICC, PUC filings and financial responsibility requirements including applicable Laws and Regulations relating to transport of hazardous materials. Contractor shall maintain physical damage coverage for all vehicles and equipment covered under the Business Auto policy.

(d) Umbrella / Excess Liability Insurance

Umbrella excess liability or excess liability insurance covering underlying general liability, auto liability and employers' liability policies with minimum limits of:

- (i) \$10,000,000 combined single limit - each occurrence;
- (ii) \$10,000,000 aggregate other than products/completed operations and auto liability; and
- (iii) \$10,000,000 products/completed operations aggregate.

This insurance shall afford insured status to all individuals and entities required to be insureds on underlying insurance, to the same extent as the underlying insurance.

(e) Professional Liability/Errors & Omissions insurance is required for all professional services performed under the contract in amounts customary for the profession.(f) Contractor's Pollution Liability Insurance and Pollution Legal Liability Insurance with minimum limits for each policy of:

- (i) \$10,000,000 combined single limit - each occurrence; and
- (ii) \$10,000,000 annual aggregate.

The Contractor shall acquire and maintain commercial insurance that covers sudden, non-sudden and gradual pollution liability exposure, for all of Contractor's operations, including but not limited to disposal of waste pursuant to this Agreement.

Coverage forms must include coverage for pollution liability on the County's site, the Contractor's sites any beneficial use or disposal sites and costs the insured is obligated to pay under statutory authority to clean up environmental damage off-site including any release of toxics or hazardous waste or other hazardous substance requiring monitoring, cleanup or corrective action under CERCLA or applicable law.

These insurance policies shall name Howard County, MD, its officials, agents, employees, successors and assigns as Additional Insured. Contractor must continue to maintain such insurance, covering incidents occurring or claims made, for a period of five (5) years after contract termination.

(g) Property Insurance

The Contractor must carry property damage insurance for all property owned, leased or loaned by the Contractor or its subcontractors to be used in this project. Limits should equal the actual cash value of such equipment and coverage must be on an "all risk" basis and include flood damage. Contractor shall be responsible for all deductibles.

Section 2. General Insurance Provisions

- (a) The County shall be named as an Additional Insured as indicated on the above Commercial General Liability, Excess Liability and Pollution Liability policies.
- (b) The Contractor shall purchase commercial insurance for the above coverages. Approval for deductibles higher than \$250,000 for the liability policies will be required from the County.
- (c) All claims made policies shall provide a minimum of a five year discovery period.
- (d) The Contractor shall assure that all subcontractors performing services for the Contractor under this Agreement carry Workers' Compensation insurance and other coverages appropriate to the responsibilities of the subcontractor, either individually or as an additional insured on the policies of the Contractor.
- (e) Primary Insurance: Insurance provided to the County and its officials, agents, employees, successors and assigns by Contractor or Subcontractors as specified herein shall:
  - (i) be primary, and any other insurance, coverage or indemnity available to the County and its officials, agents, employees, successors and assigns shall be excess of and non-contributory with insurance provided to County and its officials, agents, employees, successors and assigns by Contractor or Subcontractors as specified herein.
  - (ii) apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of insurance. Any cross suits or cross liability exclusion shall be deleted from Contractor's liability insurance policies required herein.

EXHIBIT II  
SAMPLE INVOICE

# SAMPLE INVOICE

**Your Company's Name**

Address

[Email address](#)

Telephone/Fax Nos.

**Mail Invoice To:**

Howard County Government

Department/Office Name

Address (From the Purchase Order)

Address

**Invoice No.:**

**Date:**

**FEIN:**

Contract #: 44XXXXXXXXX

Purchase Order #: 2XXXXXXXXXX

Performance Period: \_\_\_/\_\_\_/13-\_\_\_/\_\_\_/14

(For Services)

Contract Line #	PO Item #	Goods/Services Description	List Price	% Discount	Net Price	Quantity	Extended Price
-----------------	-----------	----------------------------	------------	------------	-----------	----------	----------------

\_\_\_\_\_  
\_\_\_\_\_

Total \_\_\_\_\_

Payment Terms:

Please make check payable to *Your Company's Name* and remit payment to:

*Your Company's Name*

*Address*

*Address*

If you have any questions regarding this invoice, please contact  
*Your Company's Contact Person's Name* at *Telephone No.* and *Email Address.*

**EXHIBIT III**  
**SITE PLAN AND LOADING ROUTES**

See Attachment PDF file