

SAN ANTONIO WATER SYSTEM

AGREEMENT WITH

**THREE YEAR CONTRACT FOR BIOSOLIDS
COMPOSTING AND MARKETING**

SAN ANTONIO WATER SYSTEM

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**SAN ANTONIO WATER SYSTEM
AGREEMENT WITH _____
THREE YEAR CONTRACT FOR BIOSOLIDS COMPOSTING AND MARKETING**

THIS AGREEMENT (“Contract”) dated _____, 2019, is made and entered into between San Antonio Water Systems, a municipally owned water utility (hereinafter referred to as "SAWS") and _____ a Texas _____ (hereinafter referred to as “_____”). The parties hereby agree as follows:

ARTICLE I. CONTRACT INTERPRETATION

1.01 CONTRACT DEFINITIONS- Where used in this Contract, the following words and terms shall have the meanings indicated:

- 1) **ACT OF GOD**. A cataclysmic phenomenon of nature, such as an earthquake, flood or cyclone. Rain, wind, high water, or other natural phenomenon which might reasonably have been anticipated from historical records of the general locality of the Work shall not be construed as Acts of God.
- 2) **BFP**. Belt Filter Press
- 3) **BIOSOLIDS**. Digested and dewatered anaerobically digested sludge produced by SAWS from the sanitary sewer treatment facilities at SMC WRC, as further described in the specifications set out in Section 2.01.2 below.
- 4) **COMMENCEMENT CONDITIONS**. Commencement Conditions shall have the definition set out in Section 12.01 below.
- 5) **COMMENCEMENT DATE**. Commencement Date shall have the definition as set out in Section 12.01 below.
- 6) **COMMISSION**. The Texas Commission on Environmental Quality or its successors.
- 7) **CONTRACT**. This Contract is between SAWS and _____ governing the agreement of _____ to take Biosolids from SAWS, make compost with such Biosolids and other compostable materials and market the compost. The Contract includes the exhibits attached hereto and all subsequent written amendments executed by SAWS and _____.
- 8) **COSA**. City of San Antonio.
- 9) **EXCESS AMOUNT OF BIOSOLIDS**. The amount of Biosolids in excess of the Minimum Amount of Biosolids.
- 10) **HAZARDOUS SUBSTANCES**. Hazardous Substance has the same definition as in Texas Water Code, Section 26.263; the definition of Hazardous Substance also includes any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§6901 *et seq.*

- 11) MINIMUM AMOUNT OF BIOSOLIDS. 65,000 wet tons of Biosolids material per year.
- 12) PERFORMANCE BOND. The security furnished by _____ through the Surety in the specified amount of \$500,000.00 as a guaranty that the Work will be faithfully performed and completed and that SAWS will be held harmless from all costs and damages which SAWS may suffer by reason of _____'s default or failure to perform its obligations under this Contract.
- 13) SAN ANTONIO WATER SYSTEM. San Antonio Water System (SAWS) shall mean the San Antonio Water System Board of Trustees as established pursuant to Sections 402.141 et.seq. of the Texas Local Government Code and City of San Antonio Ordinance No. 75686. Whenever in this Contract is found the term SAWS, the same shall, unless indicated otherwise, be understood to mean the San Antonio Water System Board of Trustees, or its successors or any person or persons acting lawfully in an official capacity on behalf of SAWS at such time and within the power and authority specifically delegated to him or them by this Contract.
- 14) SAWS REPRESENTATIVE. The Vice President of Production and Treatment Operations or his/her duly authorized representative.
- 15) PROJECT SITE REPRESENTATIVE. The on project site representative of _____ is _____ and is authorized to communicate with SAWS' Representative regarding performance of this Contract. The Project Site Representative or his designee shall supervise and direct the Work.
- 16) SURETY. The corporate body licensed to conduct business in the State of Texas that provides assurance that _____ or its permitted substitute will faithfully perform the Work covered by this Contract.
- 17) TERM. The Term shall be the period commencing on the date hereof and ending 36 months from commencement date or at the end of any extension of the Term properly exercised pursuant to Section 13.01.
- 18) WORK. The entire process of loading, hauling and processing Biosolids and other compostable material into compost for beneficial use. Work is the result of _____ performing services, furnishing labor and furnishing and incorporating materials and equipment in accordance with the terms of the Contract.
- 19) WRC. Water Recycling Center operated by SAWS, being the Steven M. Clouse Water Recycling Center at 3495 Valley Road, San Antonio, Texas ("SMC WRC").

1.02 INTENT OF THE CONTRACT. The intent of this Contract is to describe the parties agreement for _____ to pick up designated quantities of Biosolids from the WRC and process such Biosolids with wood chips and other compostable materials into compost for sale. Any work, materials or equipment that may reasonably be inferred as being required to pick up Biosolids, produce compost and market the compost is to be supplied by _____ whether or not specifically called for by this Contract. Unless otherwise defined herein, when words which have a well-known technical or trade meaning are used to describe work, materials or equipment such words shall be interpreted in accordance with that meaning. Where phrases "directed by," "ordered by" or "to the satisfaction of SAWS Representatives" occur, it is to be understood that the directions, orders, or instructions to which they relate are within the scope of, and authorized by this Contract and shall not constitute a direction of the Work by SAWS. Reference to standard

specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time date of this Contract and as subsequently modified by the issuing organization, association or governmental body.

1.03 DISCREPANCY IN CONTRACT DOCUMENTS- If, during the performance of the Work, _____ finds a conflict, error or discrepancy in the Contract, _____ shall promptly report the same to SAWS in writing and before proceeding with further Work affected thereby and obtain a written interpretation or clarification of the conflict error discrepancy from SAWS. SAWS shall provide _____ a prompt response (within five (5) working days after receipt of a request).

1.04 REQUESTED SAWS APPROVALS- SAWS will respond promptly (within five (5) working days after receipt of a request for approval) to written requests for approvals from _____. SAWS responses shall be in writing and if a requested approval is not given by SAWS, the response shall include the specific reasons for SAWS withholding the approval. Approvals of SAWS may be conditioned upon Commission approvals or permits or similar specific conditions.

ARTICLE II. CONTRACT OBLIGATIONS AND RESPONSIBILITIES

2.01 BIOSOLIDS QUANTITY AND QUALITY

2.01.01 SAWS shall deliver to _____ and _____ shall take from SAWS at the WRC the Minimum Amount of Biosolids in approximate equal monthly quantities. Such Biosolids substantially conforming to the standards attached hereto as **Attachment 1**, will be delivered at the WRC. Biosolids will be delivered on the BFP storage pad, conveyer system or materials storage area at the WRC for loading directly to _____ transport vehicles _____ is responsible for providing loading and hauling equipment that will suitably fit under the chutes at the WRC. _____ acknowledges and agrees that it has inspected the delivery points for _____ loading, hauling and transport vehicles and determined them to be suitable for use under this Contract.

2.01.02 The Biosolids delivered to _____ by SAWS will be anaerobically digested sludge that has been dewatered by either a BFP, sand drying bed or any other future dewatering method meeting Class B (as defined by 40 CFR Part 503 and 30 TAC Chapter 312) pathogen reduction requirements. The anaerobically digested BFP will average fifteen percent (15%) to twenty-five percent (25%) total solids content for the calendar year. The drying bed Biosolids total solid contents will average fifty percent (50%) to ninety percent (90%) total solids for the calendar year. SAWS will remove Biosolids from sand drying beds and transport such Biosolids to the storage pad at the WRC where the drying beds are located and _____ will pick up the Biosolids material from the storage pad, and be responsible for loading the Biosolids into _____'s transport vehicles. The Biosolids will be reasonably free of foreign material but some quantities of plastic and other solid materials may be present and will contain a sand component.

2.01.03 Sampling and testing of materials, laboratory inspection of materials and processes for Biosolids released by SAWS to _____ for composting shall be performed at the expense of SAWS in a laboratory maintained by SAWS or a commercial testing laboratory designated by SAWS. SAWS will be responsible for

testing/analysis of Biosolids to confirm that it meets applicable Class B Biosolids requirements and the specifications set forth on Attachment 1.SAWS will be responsible for management and disposal of Biosolids that are not Class B Biosolids at its sole cost and expense. _____ shall furnish, samples of material from the WRC it believes may not meet the requirements for composting and SAWS shall be responsible for testing the samples and determining if such Biosolids meet the required Class B requirements. _____has no responsibility to pickup, transport or dispose of Biosolids not meeting Class B Biosolids requirements.

2.01.04 Actual quantities of Biosolids delivered to _____shall be determined by certified scales located at the WRC. These scales will be used for weighing of all _____ vehicles entering and exiting the WRC. Scale tickets shall be provided for each load of Biosolids material. The weights from the scales will be the basis of billing to SAWS. All payments to _____will be based on wet tons (rounded to 20 pound increments). The scales will be certified in accordance with SAWS' Standard Maintenance Schedule from time-to-time; provided that SAWS will not have to certify the scales more than once every twelve (12) months.

2.01.05 _____ may at its sole risk and expense, store at the WRC equipment used for loading and hauling Biosolids from the WRC. SAWS shall have no liability for any loss or damage to such equipment on the WRC. All such storage shall be in locations designated by the SAWS Representative from time-to-time. All such equipment stored at the WRC shall be in good working order and maintaining all valid registrations, insurance and licensing requirements. _____ may perform routine preventative maintenance approved by SAWS on such equipment at the WRC, but no major equipment repairs may be performed at the WRC. SAWS will not operate any equipment used for loading or transporting Biosolids from the WRC to the _____ Compost Site.

2.01.06 _____ will pick up a minimum of 5417 wet tons of Biosolids per month from the WRC. _____ shall provide and operate all equipment for loading Biosolids from the BFP storage and drying bed storage area. Biosolids will not be stored or stockpiled at the WRC for more than three (3) days. The storage pad must be cleaned off by _____on a weekly basis by scraping with a front-end loader to prevent nuisance odors and vectors and other health hazards from developing. _____ is also responsible for cleaning any spills of Biosolids at the WRC conveyor that occurs while _____ is loading Biosolids from the conveyor.

2.01.07 _____ acknowledges and agrees that they are not the exclusive user of the Biosolids, and that other sludge haulers will be loading and transporting Biosolids from the WRC. _____must coordinate its loading work with the SAWS Representative so as not to interfere with or jeopardize the routine operation of the WRC's dewatering facilities or the operations of any other Biosolids hauling contractor. The SAWS Representative shall provide information for coordination of loading and hauling schedules, sequencing and order of access in its sole discretion; provided, however, in no event shall such information constitute control over _____ or direction of the work by the SAWS representative. The Biosolids loading and transportation activities may be conducted Monday through Sunday during normal working hours (6:00 a.m.-6:00 p.m., with some flexibility upon prior written approval by the SAWS Representative).

2.01.08 Transportation of Biosolids will be completed in a vehicle or container equipped in such a manner to prevent any spillage, leakage, splashing, blowing or any other accidental loss or discharge of the Biosolids. The vehicle or Biosolids rolloff container may be an open truck provided that it has a water tight bed and sealed gates that are fitted with a minimum of four manually operated closures such as "T" handles or turn-buckles to avoid accidental opening during transit. All vehicles or containers must be fitted with a tarp or other suitable cover over the load. Overloaded vehicles will not be authorized to leave the WRC property and proper compliance is the sole responsibility of _____.

_____ shall establish a procedure at the WRC to insure that all trucks traveling on a public street to or from the WRC are properly covered, not overloaded and turnbuckles are in use. _____ shall be responsible for clean up of any spills of Biosolids on any WRC or public street. _____ must commence clean up of any Biosolids spill within one (1) hour of notification of the occurrence of the spill and pursue completion of the clean up with immediate due diligence. _____ shall report any spills to appropriate regulatory agencies in accordance with legal and regulatory requirements. All spills must be reported by phone to the SAWS Representative within 1 hour of notification of the occurrence of the spill. If _____ fails to timely commence the clean up or complete the clean up with immediate due diligence, SAWS may at the sole cost and expense of _____ clean up the spill using its staff and equipment or a third party contractor _____, upon receipt of an invoice with copies of documents supporting the costs or charges, shall reimburse SAWS on demand all of SAWS' costs of clean up, including labor, equipment, material and disposal charges plus an overhead and administrative fee of thirty-five percent (35%) of the labor, equipment and disposal charges.

2.01.09 _____ will provide appropriate multi-part trip tickets to insure compliance with the record keeping requirements of 30 TAC Chapter 312 Subchapter G for transportation of Biosolids to the composting site. Trip tickets will be distributed and maintained in accordance within the above state regulations.

2.01.10 _____ shall transport Biosolids from the WRC to the compost site in conformance with all applicable Federal, State, or Local laws. _____ shall require all vehicle operators to comply with all posted speed limits on and off the WRC. Farm to Market Road 1937 has a current maximum load limit of 58,420 lbs. and any additional weight permits will be the responsibility of _____. Only vehicles that are properly registered under state and local rules with the required certifications and markings to conform to the requirement of these specifications will be allowed to load. _____ must provide SAWS with copies of registration letters of anyone who may or will be transporting Biosolids, at the time of the Effective Date of this Contract and upon any changes thereafter.

No Biosolids transport vehicle will be allowed on the WRC until SAWS has been furnished with copies of the then current Commission transport registration documents or permits for the vehicle. In addition, SAWS may deny any vehicle or driver access to and the right to travel on the WRC property and to load or unload materials at the WRC property if SAWS believes in its sole discretion that (i) the vehicle is in need of maintenance or repair work which in SAWS' reasonable opinion, makes it unsafe to perform the Work, (ii) the driver is impaired, (iii) the vehicle does not have proper registration or insurance, or (iv) such vehicle or driver may be a danger to SAWS' personnel or property or the public and its

property. SAWS has no duty to inspect or test the vehicles or drivers. SAWS' Representative shall notify _____ if SAWS has determined not to allow a vehicle to load or unload material pursuant to this subsection _____ shall be responsible for any delays under this Section.

2.01.11 _____ shall compost at least seventy-five percent (75%) of Biosolids awarded per year. _____ may dispose of Biosolids under this Contract at other composting sites only with the specific prior written approval of the SAWS' Representative. Further, any Biosolids not composted shall be disposed at a properly licensed municipal solid waste landfill, provided that _____ is composting at least seventy-five percent (75%) of the Biosolids. Failure to compost at least seventy-five percent (75%) of the Biosolids shall constitute a default under this Contract, and SAWS shall be entitled to any and all remedies at law or in equity, including, without limitation, termination of this Contract. In addition, if _____ fails to compost at least seventy-five percent (75%) of the Biosolids in any calendar year, (i) SAWS shall no longer be obligated to deliver or pay _____ for the Minimum Amount of Biosolids, (ii) SAWS may dispose of the Biosolids in any manner SAWS determines, in its sole discretion, and (iii) _____ shall be responsible for any cost SAWS incurs in disposal of the Biosolids in excess of the cost payable to _____ under this Contract, which sum may be deducted from any sum then due and owing to _____ or from the Performance Bond provided by _____ hereunder.

2.02 COMPOSTING OPERATIONS

2.02.01 Consistent high quality Biosolid products and compost shall be produced in accordance with all current applicable and future legal and regulatory standards

2.02.02 _____ will transport all Biosolids it takes under Section 2.01 to the _____ composting site. _____ shall provide all labor, equipment and material needed or used to produce the compost. _____ will determine the type or mix of compost produced, including percentages of sand, mulch and other materials added to the compost _____ may utilize any materials in the compost process that are acceptable for notification and exempt tier compost facilities as authorized by 30 TAC 332.3 (c) and (d).

2.02.03 _____, as an independent contractor, shall be responsible for all composting activities, including but not limited to, loading, hauling, transportation, assembly of windrows or compost piles, turning such piles, adding any required materials, including compostable material, nitrogen sources, water and any other specialty mixes such as sand or soil, and for screening, storing, packaging and selling.

2.02.04 _____ shall manage the space at the _____ compost site; constructing compost piles or windrows and removing completed compost so as to insure that _____ shall be able to take and process into compost, all Biosolids it is required to take under this Contract. _____ shall maintain the compost site in compliance with all applicable rules, regulations, codes and laws.

- 2.03.01 _____ shall obtain, maintain and provide all permits, licenses, equipment, labor, material, monitoring, fuel and all other labor, material, equipment and services required to remove the designated quantities of Biosolids from the WRC to the _____ composting site processing areas and process such Biosolids into compost for beneficial use and to market the compost.
- 2.03.02 _____ as an independent contractor, shall supervise and direct the Work using its best skill and attention. _____ shall be solely responsible for all means, methods, techniques, sequences and procedures necessary to complete the Work under this Contract, as well as for implementing safety precautions and for coordinating all portions of the Work under this Contract.
- 2.03.03 In connection with SAWS' visual observation/inspection of the Work or materials testing contemplated herein, it is clearly understood that _____ is responsible for performing quality control inspection and testing services to assure that the compost meets all applicable laws, rules and regulations for resale to and use by consumers.
- 2.03.04 If _____, in the course of the Work, finds any discrepancies between the physical conditions of the Biosolids and application requirements, _____ shall immediately inform SAWS by phone and in writing of the discrepancies. Any Work performed by _____ after discovery of the discrepancy but before being authorized by SAWS to continue Work will be done at _____'s sole risk and/or expense. SAWS will promptly respond to _____ requests for testing and analysis in light of the specific problem.
- 2.03.05 _____ is responsible for all loading, transportation, processing, packaging and sales, including the compliance with all Federal, State and Local laws, rules and regulations for these activities.
- 2.03.06 _____ shall provide SAWS with a detailed plan, updated at least annually, advising SAWS on how _____ is complying and will comply with all Federal, State, and Local laws, rules, codes, ordinances and regulations pertaining to the Work. Failure of _____ to comply with any of the applicable laws, rules, codes, ordinances and/or regulations after appropriate notice and cure periods set out in Section 10.01 below, shall be events of default under this Contract, and may be considered cause for termination of this Contract.
- 2.03.07 _____ shall be knowledgeable of and comply with all notice, recordkeeping and other requirements of the WRC TPDES Permit No. W00010137033 [EPA ID No. TX 0077801] as they apply to the beneficial use of Biosolids as set out in Section 11.03. Failure to comply with any of these requirements shall be a default under this Contract, and may be considered cause for termination of this Contract.
- 2.03.08 _____ agrees to reimburse SAWS for any and all fines or additional operation expenses arising from any regulatory enforcement action that is imposed on SAWS by any Federal, State or Local regulatory agency that result from

any actions or omissions of _____, and/or subcontractors or agents of _____.

- 2.03.09 The operation of the compost facility must be performed in accordance with all legal and regulatory requirements and in a manner to limit complaints or nuisance conditions created by vectors, odors and dust. The contractor will be responsible for responding to all complaints and implementing any practices or processes needed to rectify such complaints. Failure to manage the facility to minimize odor, vectors or dust, or failure to respond to complaints which result in regulatory violations or infractions shall be a default under this Contract and may be grounds for termination of the Contract.
- 2.03.10 Inclement weather events do not relieve _____ from the performance of its obligation to pick up Biosolids at the WRC and haul to the _____ Compost Site.
- 2.03.11 Equipment failure shall not be an excuse for _____ not complying with its obligations under this Contract. Failure to obtain or maintain permits shall not be an excuse for _____'s failure to comply with its obligations under this Contract.
- 2.03.12 _____ shall have a competent superintendent or assistant superintendent available twenty-four (24) hours a day, seven (7) days a week, by phone and shall respond to calls from SAWS within two (2) hours after being contacted.
- 2.03.13 _____ declares that _____ has thoroughly examined the SMC WRC and has become familiar with typical local geophysical conditions at or near the WRC, and has read and has thoroughly understood this Contract.
- 2.03.14 _____ shall maintain at its offices at _____ compost site, a detailed set of operation records pertaining to the Work, including Biosolids hauling and transport records (both inbound and outbound of the _____ Compost Site), testing results, etc. SAWS shall have the right to inspect records dealing with Commission's 30 TAC Chapter 332 and 312 rules and standards to the extent reasonably necessary to verify compliance with this Contract.
- 2.03.15 SAWS may require reasonable special inspection, testing or approval of (i) any non-SAWS' bulking or mixing material _____ brings into the _____ compost site, and (ii) the compost before it is removed by _____ to determine compliance with the requirements of this Contract, _____ shall promptly arrange for such reasonable special testing and inspection at an approved Lab, _____ or the SAWS' laboratory when requested by SAWS. SAWS' current lab rates are set out on Exhibit A hereto. Should the material or compost fail to comply with the requirements of this Contract, _____ shall pay the reasonable cost of correcting the deficiency or land filling the compost.
- 2.03.16 _____ shall at its sole cost and expense restore property of any description, including property of SAWS, which may be damaged in the performance of this Contract by _____, its agents, employees,

subcontractors or their employees and subcontractors, to the condition existing prior to such damage.

2.04 COMPOST PRODUCTION

2.04.01 All compost produced by SAWS Biosolids at the _____ compost site shall meet Commission's 30 TAC Chapter 332 and 312 rules and standards. In addition, _____ shall comply with the requirements for processing the biosolids into Class A compost as set forth on Attachment 2 hereto.

2.04.02 It is the responsibility of _____ to establish and submit a marketing plan for the Biosolids. It is SAWS stated goal to obtain 100 percent beneficial use of Biosolids, and this should be reflected in _____'s marketing plan. In keeping with SAWS' goal of diversification and the intent of this Contract, it is the responsibility of _____ to strive to generate products for suitable market uses. Alternative use or disposal markets should only be used as failsafe backup options. Should it appear to SAWS that _____ is not complying with appropriate marketing and use of the product, SAWS may take corrective steps, such as reducing the tonnage required to be delivered to _____ under this Contract, or may terminate the Contract.

2.04.03 _____ will conduct all Class A pathogen reduction sampling and other required testing under 30 TAC Chapters 312 and 332 of the compost produced at the _____ compost site that contains quantities of SAWS' Biosolids. SAWS will provide all sampling and analysis of Biosolids to _____ and certify the Biosolids meet Class B criteria. _____ is responsible for all Class A performance sampling. The SAWS laboratory is available to conduct all Class A testing and report the results to _____. _____ will be charged for the testing according to the then existing SAWS' rate structures. _____ will be responsible for certifying pathogen reduction and vector attraction reduction for Class A proposals. Copies of certifications shall be sent monthly to the SAWS Representative.

Any other analytical work performed will be the responsibility of _____. _____ may use the SAWS laboratory for any additional testing and pay according to the then existing SAWS' rate structures. All results shall be reported to the SAWS Biosolids Manager within thirty (30) days identifying the laboratory used for any analysis, the phone number, contact person, test performed, method used and analytical result.

Hazardous Substances: _____ shall not use, release, manufacture or dispose of any Hazardous Substances at the _____ compost site or the WRC. _____ shall defend, indemnify, and hold harmless SAWS from any and all liabilities (including strict liability), actions, demands, penalties, losses, costs, or expenses (including without limitation attorneys' fees and expenses, and remedial costs), suits, costs of any settlement or judgment and claims of any and every kind whatsoever which may now or in the future (whether before or after the termination of this Contract) be paid, incurred or suffered by or asserted against SAWS by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the _____ Compost Site of any Hazardous Substances which arise out of or result from _____

_____’s performance of its obligations under this Contract and/or _____
_____ s operations on the _____ compost site.

2.04.04 _____ shall make available and provide to SAWS at the
_____ composting site up to 100 cubic yards per year
of bulk compost at no cost to SAWS.

ARTICLE III. COMPENSATION FOR SERVICES

3.01 FEE PAID TO _____ FOR TAKING BIOSOLIDS-Subject to the terms and provisions of Section 2.01.11, SAWS shall pay _____ /100 Dollars (\$ _____) per wet ton of Biosolids material delivered to _____ for the Minimum Amount of Biosolids. _____ will invoice SAWS monthly by the 10th of each month for Biosolids materials hauled during the prior calendar month based on scale ticket weight receipts from the scales at the WRC. All reasonable record keeping requirements (i.e., scale weight records, load tickets, invoice forms) shall be met before invoices are processed for payment. All monthly invoices will be paid within 30 days from receipt of all required documentation.

3.02 ANNUAL FEE MODIFICATION—Beginning one year after the Start Date, the fees shall be subject to annual adjustment according to the following provisions. Said price per ton payable by SAWS for the services hereunder, may be adjusted effective on the anniversary date of the contract award by SAWS each year to an amount determined by using the Consumer Price Index; Reference Base: 1982-84=100. Annual Fee Modification will be calculated by using the Consumer Price Index Previous May figure in comparison to the most recent Consumer Price Index May figure. Annual Fee Modification will be calculated as follows (using May 2018 and May 2019 figures as an example):

\$28/ton unit price in May 2018
May 1, 2018 (234.034)
May 1, 2019 (237.485)
Index Point Change: $237.485 - 234.034 = 3.457$
Divided by the earlier index: $3.457/234.034 = 0.014746$
Multiplied by 100 = $.014746*100 = 1.474$
Equals percent change = 1.474%
Revised Price: $28 + (28*.01474) = \$28.413$

The following year’s calculation will be based upon using May 2018 and May 2019 figures and a price of \$28.413, and so forth for subsequent years.

It is agreed by SAWS and contractor that the CPI adjustment authorized in this paragraph shall not exceed five percent (5.0%) in any given year; nor, shall the cumulative adjustments exceed a total of twenty five percent (25%). Consumer Price Index shall mean the United States Department of Labor Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers, Not Seasonally Adjusted, All Items, Dallas-Ft. Worth, Texas, or any successor to that index. Contractor will notify SAWS in writing for acceptance as soon as practicable following the determination of any such proposed adjustment, which acceptance will not be unreasonably withheld. Failure to notify SAWS of any adjustment within thirty (30) days following the date of adjustment shall constitute a waiver by the contractor of the right to the price adjustment.

3.03 MINIMUM AMOUNT OF BIOSOLIDS-Subject to the terms and provisions of Section 2.01.11, this Contract will be based on “take or pay” for the Minimum Amount of Biosolids per year_____

_____ is required to remove Biosolids in a consistent and timely manner (awarded amount in tons / 52 weeks). If _____ cannot process Biosolids through composting, _____ must make alternative arrangements and pay all associated costs to landfill the Biosolids.

ARTICLE IV. REGULATORY COMPLIANCE AND RECORDKEEPING

- 4.01 **MONTHLY REPORTS** - _____ must supply monthly reports to SAWS by the 10th of the following month. The reports will include the monthly invoice, documenting the measured weights of each load of biosolids transported from SMC WRC. Additionally, the monthly report shall include copies of all reports submitted to regulatory agencies, reports of any regulatory inspections or violations, finished compost product quality information, reports of any biosolids or finished compost products that were disposed of in a landfill, any public nuisance complaints.
- 4.02 **WITHHOLDING PAYMENTS** - SAWS reserves the right to withhold payment if complete and correct information is not provided to document complete processing and beneficial use of the Biosolids.
- 4.03 **ANNUAL REPORTS** - Where applicable, _____ shall provide SAWS with an annual report addressing compliance with the requirements of 40 CFR, Parts 501 and 503, no later than September 30 following the end of the immediately preceding reporting period.
- 4.04 **BIOSOLIDS FROM DIFFERENT SOURCES** - For processes and products that are a mixture of Biosolids from different sources and other additives, _____ shall provide tracking of all Biosolids through processing and marketing or beneficial use. If there is a batch of product that does not meet specifications, _____ will inform SAWS whether the batch contained SAWS' Biosolids and must provide remediation procedures and actions to improve quality control.
- 4.05 **REPORT OF VIOLATIONS**- _____ must demonstrate compliance with all Federal, State, and local laws, rules, codes, ordinances and regulations requiring the reporting of violations. Any violations or investigations at the compost site must be reported to SAWS immediately and also to the appropriate regulatory authority on the earlier of the date that SAWS requests, or time required by any applicable law, code, rule, or regulation or ordinance.
- 4.06 **COMPLIANCE AND RESPONSE DATA** - _____ must also keep a record of all compliance operational data, complaints or questions received, the response provided and the response time. SAWS shall be notified of all notices or any violations, complaints and responses at the compost site within one business day. Summaries should be provided to SAWS in the monthly report.
- 4.07 **PERMITS**- All necessary permits must be maintained by _____ and kept current. Copies shall be provided to SAWS upon issuance and renewal and should be available at the _____ composting site.

ARTICLE V. LEGAL RELATIONSHIPS, LIABILITY AND INDEMNITY

- 5.01 **GENERAL UNDERSTANDING:** _____, at its own cost and expense, shall furnish all supervision, tools, implements, machinery, labor, materials and accessories, such as are necessary and proper for the Work. _____ shall obtain, maintain and provide all required permits and licenses at its own cost and expense, complete and conform to and comply with all laws, regulations, codes and ordinances pertaining to the Work and/or the maintenance and

operation of the _____ Compost Site operations. SAWS will cooperate with _____ at no expense to SAWS and provide all reasonably required consents or approvals for permits. Failure of _____ to comply with any of the applicable laws, rules, codes, ordinances and/or regulations after appropriate notice and cure periods set out in Section 10.01 below, shall be events of default under this Contract, and may be considered cause for termination of this Contract.

5.02 LEGAL RESPONSIBILITIES _____ in the performance of the Work shall comply at its sole cost and expense with all pertinent Ordinances of the City of San Antonio (COSA), Regulations of the San Antonio Water System (SAWS), Laws of the State of Texas, and of the United States, including Rules and Regulations of the United States Department of Labor, pertaining to Occupational Safety and Health Administration standards, Commission and Environmental Protection Agency (EPA) as presently existing or as may hereinafter be modified or amended.

5.03 LIABILITY & INDEMNIFICATION- _____ shall protect the public, SAWS and COSA fully by taking reasonable precaution to safeguard persons from death or bodily injury and to safeguard property of any nature whatsoever from damage. Where any dangerous condition or nuisance exists in and around sites, equipment and supply storage areas, and other areas in anyway connected with the performance of this Contract, _____ shall provide and maintain reasonable warning of such danger or nuisance. _____ shall not create excavation, obstructions, or any dangerous condition or nuisance of any nature whatsoever in connection with the performance of this Contract. The duties of _____ in this section shall be non-delegable, and _____'s compliance with the specific recommendations and requirements of the San Antonio Water System or the City of San Antonio as to the means of warning shall not excuse _____ from the faithful performance of these duties should such recommendations and requirements not be adequate or reasonable under the circumstances.

5.04 INDEMNITY; SOLE REMEDY; LIMITATION OF LIABILITY

5.04.01 _____ hereby agrees to indemnify, defend and hold harmless SAWS, COSA and their respective agents and employees from and against any and all losses, damages, fines, penalties, fees (including, without limitation attorneys' fees and costs of dispute resolution), judgments, decrees, and expenses or costs of any nature whatsoever (collectively, "Damages"), arising out of any material breach of any representation, warranty, covenant or obligation made by _____ in this Contract ("Claims"), Damages suffered by SAWS, COSA and their agents and employees for the death or injury to persons or for damage to property caused, or allegedly caused, by any willful acts, negligence, or breach of any term or condition of this Contract in connection with work to be performed pursuant to said Contract, by _____, its agents, subcontractors, or employees. _____ shall furthermore indemnify, defend and save harmless SAWS and COSA and their respective agents and employees from all demands of subcontractors, workmen, materialmen, or suppliers of machinery and parts thereof, equipment, power tools, and supplies incurred in connection with work to be performed under this Contract.

SUCH INDEMNITY SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, JUDGMENTS, DECREES, OR LIABILITY ARISE IN PART FROM THE NEGLIGENCE OF SAWS OR COSA. IT IS THE EXPRESSED INTENTION OF _____, SAWS AND COSA THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS

INDEMNITY BY _____, TO INDEMNIFY AND PROTECT SAWS AND COSA FROM THE CONSEQUENCES OF _____'S NEGLIGENCE. WHERE THE NEGLIGENCE OF SAWS AND/OR COSA IS A CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGE, _____ SHALL BE LIABLE FOR ITS PROPORTIONATE SHARE OF THE INJURIES AND DAMAGES. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DEATH OR DAMAGE THAT RESULTS FROM THE SOLE NEGLIGENCE OF SAWS AND COSA UNMIXED WITH THE FAULT OF ANY PERSON OR ENTITY. NOTHING HEREIN SHALL LIMIT, WAIVE OR AFFECT THE IMMUNITY OR GOVERNMENTAL LIMITATIONS OF LIABILITY AFFORDED SAWS AND/OR COSA BY STATE LAW.

In any Claims against SAWS or COSA or their agents or employees by _____, any employee of _____, any subcontractor, anyone directly or indirectly employed by _____, or any subcontractor or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for _____ or any subcontractor under workers' compensation acts, disability benefit acts or other employer's benefit acts.

5.04.02 ROYALTIES AND PATENTS – _____ shall pay all royalties and license fees, and defend all suits or claims for infringement of any patent rights or royalties arising from _____'s compost operations at the _____ Compost Site. This indemnity does not apply to any royalties or fees arising from SAWS' water treatment process before the Biosolids are delivered to _____ for composting.

5.04.03 The terms of this Section 5.04 shall survive the expiration of the Term or earlier termination of this Contract.

5.05 **NO WAIVER OF RIGHTS**- Unless specifically and unambiguously set out in this Contract, no observation/inspection or approval by either party or any officer or employee of either party, or any order, measurement or certificate by SAWS, or any estimate or payment by either party for any part of said Work, or material or method or equipment, or any extension of time, at any time shall operate as a waiver of any provision or obligation of this Contract or any right or power herein given or reserved to either party, or of any right to claim any indemnity or damages in connection with the Work or otherwise as herein provided for; nor shall any waiver by either party of any breach of this Contract be deemed as a waiver of any other or subsequent breach; and every right or remedy provided to either party under the Contract Documents shall be cumulative, and in addition to all other rights and remedies available to such party.

5.06 **INTEREST IN CONTRACT PROHIBITED**- No officer or employee of SAWS shall have a financial interest, direct or indirect, in any Contract with SAWS, or shall be financially interested, directly, in the sale to SAWS of any land, materials, supplies or service, except on behalf of SAWS as an officer or employee. This prohibition extends to CPS Energy, the City of San Antonio, and City boards and commissions other than those which are purely advisory.

5.07 **WAGES PURSUANT TO LABOR CODE**- _____ shall comply with the terms of Labor Code Section 61, as amended, to the extent, if any, that it applies to the work performed by _____ under this Contract.

- 5.08 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS NONDISCRIMINATION CLAUSE- The San Antonio Water System highly encourages _____ to implement Affirmative Action practices in their employment programs. Furthermore, _____ agrees not to discriminate against any employee or applicant for employment because of race, color, national origin, religion, sex, age, handicap or political belief or affiliation.
- 5.09 SMALL, MINORITY, WOMEN AND VETERAN-OWNED BUSINESS POLICY (SMWVB) REQUIREMENTS- The San Antonio Water System highly encourages _____ to form joint ventures and/or provide subcontract opportunities to small, minority, woman and veteran owned firms.
- 5.10 AMERICANS WITH DISABILITIES ACT (ADA)-_____ shall, to the extent required by law, comply with the ADA, as amended, and any regulation, law or ordinance promulgated under authority of such Act with regard to the public's access to the _____ compost site by the handicapped.
- 5.11 IMPOSSIBILITY OF PERFORMANCE- Should the performance of the obligations of SAWS or _____ be prevented or delayed by an Act of God, war, civil insurrection, fire, flood, storm, strike, lockout, or by any law, regulation, order of any federal, state, county, or municipal authority, or by any other cause beyond the control of the party to be excused, that party's performance, to the extent it is prevented or delayed, shall be excused. Rain or high water which might reasonably have been anticipated resulting from up to eight inches (8") of rain within a twenty-four (24) hour period shall not be construed as Acts of God excusing _____'s performance under this Contract.
- 5.12 ANTI-RAIDING CLAUSE – _____ acknowledges and agrees that any former Water System employee who may establish employment with _____ shall not, for a period of two (2) years from the date of cessation of employment with SAWS, (i) work on SAWS or SAWS related contracts or projects which the former employee awarded, managed or participated in while an employee of SAWS, (ii) solicit business from SAWS, nor (iii) participate in the negotiation of contracts with SAWS, unless, in any event, the prior written consent is obtained from the President/Chief Executive Officer (or his designee) of SAWS. The terms of this provision shall survive the expiration of the Term or earlier termination of this Contract.

ARTICLE VI. INSURANCE REQUIREMENTS:

- 6.01 COVERAGE-Commencing on the date of this Contract, the Contractor shall, at his own expense, purchase, maintain and keep in force such insurance as will protect _____ and SAWS and the City of San Antonio ("COSA") and their employees and agents from claims, which may arise out of or result from _____'s operations under this contract, whether such operations are by _____, by any subcontractor, supplier or by anyone directly or indirectly employed by any of them or by anyone for whose acts of any of them may be liable, including, without limitation, the following lines of insurance coverage:

- 1) Workers' Compensation (WC) insurance that will protect _____, SAWS and COSA from claims under statutory Workers' Compensation laws, disability laws or such other employee benefit laws and that will fulfill the requirements of the jurisdiction in which the work is to be performed

The minimum policy limits of liability for this line of insurance coverage shall be statutory limits.

This line of insurance coverage shall be endorsed to provide a **Waiver of Subrogation** in favor of SAWS and the City with respect to both this line of insurance coverage and the **Employers' Liability (EL)** insurance (as specified immediately below))

- 2) **Employers' Liability (EL)** insurance (**Part 2** under a standard Workers' Compensation policy) that will protect the CONTRACTOR, SAWS and the City for damages because of bodily injury, sickness, disease of vendor's employees apart from that imposed by Workers' Compensation laws.

This line of insurance coverage shall have minimum policy limits of liability of not less than:

\$ 1,000,000.00	Bodily Injury by Accident
1,000,000.00	Bodily Injury by Disease - Each Employee
1,000,000.00	Bodily Injury by Disease - Policy Limit

- 3) **Commercial General Liability (CGL)** insurance that will protect the_____, SAWS and the City from claims for damages because of bodily injury, personal injury, sickness, disease or death and insurance that will protect the_____, SAWS and the City from claims for damages to or destruction of tangible property of others, including loss of use thereof.

This line of insurance coverage shall:

- Cover independent contractors;
- Not include any exclusions relating to blasting, explosion, collapse of buildings or damage to underground property (*if applicable*);
- Afford coverage for Products Liability and/or Completed Operations and, Contractual Liability.

The minimum policy limits of liability for this line of insurance coverage shall be:

\$ 1,000,000.00	Occurrence Limit
2,000,000.00	General Aggregate
2,000,000.00	Products/Completed Operations Aggregate
1,000,000.00	Personal and Advertising Injury
1,000,000.00	Contractual Liability

This line of insurance coverage shall be endorsed:

- Naming SAWS and the City as an **Additional Insured**; and
- To provide a **Waiver of Subrogation** in favor of SAWS and the City.

- 4) **Commercial/Business Automobile Liability (AL)** insurance that will protect_____, SAWS and the City from claims for damages arising out of the maintenance, operation, or use of any owned, non-owned or hired vehicles.

Minimum policy limits of liability for this line of insurance coverage for bodily injury and property damage **combined** shall be not less than \$1,000,000.00 per each occurrence.

This line of insurance coverage shall be endorsed:

- Naming SAWS and the City as an **Additional Insured**; and

To provide a **Waiver of Subrogation** in favor of SAWS and the City.

- 5) **Excess/Umbrella Liability (UL)** insurance in the amount of \$2,000,000.00. This policy shall be of an "**Occurrence**" type and the limit of liability shall be concurrent with (following form) and in excess of the **EL**, **CGL**, and **AL** lines of insurance coverage as listed above.

NOTE - For the Excess/Umbrella Liability policy, describe in the Description of Operations section of the Certificate of Liability Insurance ("Certificate"), the coverage form under which this line of coverage is written – either:

- Umbrella Liability form; or
- Excess Liability form.

- 6) **Contractor's Pollution Liability Insurance** with limits of \$2,000,000 per occurrence/\$2,000,000 in the aggregate. The policy shall provide "claims made" coverage for all claims, liabilities, damages, costs, fees, and expenses of any kind or character arising out of any Pollution Condition(s) (as defined below) that is in any way related to _____'s operations, actions or inactions, and completed operations associated with any work performed by Contractor, its subcontractors, or any of their respective employees, agents, representatives, or officers under this Contract. Coverage must be maintained for a minimum of twenty-four (24) months after the date that a Certificate of Completion is issued, or if the Contract is terminated for any reason, for a minimum of twenty-four (24) months following the date of termination. The policy retroactive date will be no later than the Contract date or the project commencement date, whichever is earlier.

Pollution Condition(s) means the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, sewage, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste and waste materials into or upon land, the atmosphere or any watercourse or body of water, including groundwater, provided such conditions are not naturally present in the environment in the amounts or concentrations discovered.

The Contractor's Pollution Liability Insurance will pay on behalf of the _____ OR, SAWS and the City of San Antonio all claims, demands, damages, liabilities, costs, fees, and expenses of any kind or character for bodily injury or death, property damage, environmental or natural resource damage, and any fines, fees, assessments or penalties of any kind assessed by any governmental department, agency or commission that result from or are related to a Pollution Condition(s). Coverage will include all subcontractors hired by _____ to perform any work on the Project or under this Contract.

The policy shall also include the following provisions:

- Coverage for bodily injury to include physical injury, sickness, disease, mental anguish and emotional distress sustained by any person, including death;
- All costs that are related to or that arise out of or from the investigation or adjustment of any claim or in connection with any court, arbitration, mediation, state administrative hearing, or other proceeding of any kind, including attorneys fees, expert witness fees,

costs, charges and expenses of any kind or character, that arise out of or that are related to a Pollution Condition(s);

- Coverage shall be Primary and in addition to any other valid and collectible insurance carried by SAWS and the City of San Antonio as respects to this Contract;
- Coverage for Natural Resource Damages and any fines, fees penalties or assessments by any governmental agency, commission or department related to any Pollution Condition(s);
- Insured versus Insured exclusion, if found in the policy, shall not apply to a claim by an Insured who qualifies as a Client of the Named Insured under the policy;
- If Non-Owned Disposal sites are used for disposal of wastes, these sites shall be specifically included under the Contractors Pollution Liability Insurance policy; and
- Coverage for punitive, exemplary, and multiple damages.

Automobile Liability policy of _____ hauling spoil shall either be endorsed to provide coverage under the TE9948 endorsement or the Contractor's Pollution Liability Insurance policy shall be endorsed to provide transportation coverage beyond the boundaries of the job site.

6.02 SUBCONTRACTOR'S INSURANCE-_____ shall require all Sub-contractors to carry insurance coverage appropriate to their scope of Work.

6.03 LINES OF INSURANCE - _____ agrees that with respect to the above required lines of insurance, all insurance policies are to contain or be endorsed to the extent, not inconsistent with the requirements of the issuing insurance carrier, to provide for an endorsement that the "other insurance" clause shall not apply where SAWS and the CITY are an Additional Insured shown on the policy if such endorsement is permitted by law and regulations.

6.04 INSURANCE POLICIES - _____ shall, upon request of SAWS, provide copies of all insurance policies and endorsements required under Contract.

6.05 DEDUCTIBLES - _____ is responsible for the deductibles under all lines of insurance coverage required by these Specifications.

6.06 MINIMUM INSURANCE LIMITS - The stated policy limits of each line of insurance coverage required by these Specifications are MINIMUM ONLY and it shall be the _____'s responsibility to determine what policy limits are adequate and the length of time each line of insurance coverage shall be maintained; insurance policy limits are not a limit of the _____'s liability. These minimum limits of insurance coverage may be either basic policy limits of the WC/ EL, CGL and AL or any combination of basic limits or umbrella limits.

6.07 CERTIFICATE OF LIABILITY INSURANCE (CERTIFICATE) REQUIREMENTS - Prior to the commencement of any work under this Contract and once notified by SAWS Purchasing Division that your Company has been selected as the apparent, lowest responsive Bidder, pending Board final approval, and you will be requested to submit your Company's Certificate(s) of Liability Insurance, that Certificate(s) must meet all of the following requirements:

The CONTRACTOR shall have completed by its insurance agent(s), a Certificate(s) providing evidence of the lines of insurance coverage pursuant to Section 1) through 6) listed above.

The original Certificate(s) or form must include the agent's original signature, including the signer's company affiliation, mailing address, Office and FAX phone numbers, email address, and contact person's name; and, be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative in strictly compliance with sections (**Certificate Holder**) and (**Distribution of Completed Certificates**) below.

The Texas Legislature passed and Governor Perry signed Senate Bill 425 to become effective January 1, 2012. This law will require all certificates of insurance forms to be filed with and approved by the Texas Department of Insurance before they can be used after the effective date of the law. In addition, the law codifies current Texas Department of Insurance rules that a certificate of insurance must not obscure or misrepresent the coverage provided by the insurance policies.

SAWS will not accept Memorandum of Insurance or Binders as proof of insurance.

SAWS shall have no duty to pay or perform under this Agreement until such certificate(s) and endorsements have been received, reviewed and deemed 100% compliant with SAWS Purchasing Bid document Insurance Specifications by SAWS' Risk Management/Purchasing Division. No one other than SAWS Risk Manager shall have authority to waive any part of this requirement.

- 6.08 ADDITIONAL INSURED - SAWS requires that the Automobile Liability ("AL") and the Commercial General Liability ("CGL") policies must be endorsed naming Certificate Holder (as per item 2. i. below) as an **Additional Insured** and, **so noted in the DESCRIPTION OF OPERATIONS section of the Certificate:**

Suggested wording to be placed on the Certificate is as follows:

EITHER use,

The AL and CGL policies include a blanket automatic **Additional Insured** endorsement that provides additional insured status to the Certificate Holder only when there is a written contract between the named Insured and the Certificate Holder that requires such status.

OR use,

The AL and CGL policies are endorsed naming the Certificate Holder as an **Additional Insured**.

NOTE: If the above wording cannot be placed in the **DESCRIPTION OF OPERATIONS** section of the Certificate, please provide SAWS with the completed Certificate, a copy of the specific AL and CGL Additional Insured endorsement documents or the policy wording from both the AL and CGL policies.

- 6.09 WAIVER OF SUBROGATION - SAWS requires that the AL, CGL and Workers' Compensation/Employer's Liability ("WC/EL") policies must be endorsed with the **Waiver of Subrogation** in favor of Certificate Holder (as per item below) and, **so noted in the DESCRIPTION OF OPERATIONS section of the Certificate**

- 6.10 CERTIFICATE HOLDER- SAWS shall be shown as the Certificate Holder in the Certificate Holder section located in the bottom half of the standard ACORD Certificate forms as follows:

San Antonio Water System/City of San Antonio
c/o Ebix BPO
P.O. Box 100085-ZD
Duluth, GA 30096

6.11 DISTRIBUTION OF COMPLETED CERTIFICATES - Completed **Certificates of Liability Insurance** shall be distributed by the _____ within 5 days after receipt of written confirmation of being notified as the lowest, responsive Bidder pending final Board approval, as follows:.

1) Send Original:

a) By Mail

Ebix BPO
P.O. Box 100085-ZD
Duluth, GA 30096

b) By Fax: (770) 325-6502

c) By E-Mail: saws@ebix.com

2) Send Copy by mail to:

San Antonio Water System
Attention: Purchasing Division
P.O. Box 2449
San Antonio, TX 78298-2449

_____ shall be responsible for obtaining Certificates of Insurance from the first tier Sub-contractor, and upon request furnish copies to SAWS.

6.12 INSURANCE RATINGS AND TYPES - _____ agrees that all insurance policies specified under these Requirements shall be with insurance companies, firms or entities that have an A.M. Best rating of "A- ("A"- minus)" and a Financial Size Category rating of a "VII" or better. All insurance policies shall be of an "Occurrence" type except the Contractor's Pollution Liability line of coverage.

6.13 REVIEW OF STATED INSURANCE SPECIFICATIONS: SAWS reserves the right to review the above stated insurance specifications during the effective period of this Contract and any extension or renewal hereof and to request modification of lines of insurance coverage and their respective liability limits when deemed necessary and prudent by SAWS' Risk Manager and Legal Department based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. In no instance will SAWS and the City allow modification whereupon SAWS and the City may incur increased risk exposure.

6.14 SURVIVAL- Any and all representations, conditions and warranties made by _____ under this Contract including, without limitation, the provisions of Section 6.01.B., 6.01.C. and 6.01.D. of these Insurance Requirements are of the essence of this Contract and shall survive the execution and delivery of it, and all statements contained in any document required by SAWS whether delivered at the time of the execution, or at a later date, shall constitute representations and warranties hereunder.

ARTICLE VII. PERFORMANCE BOND

7.01 PERFORMANCE BOND - _____ shall furnish a Performance Bond in favor of SAWS in an amount equal to Five Hundred Thousand and No/100 Dollars (\$500,000.00) as security for the faithful performance of all of _____'s obligations under this Contract. The bond shall cover the Term of this Contract and allow for claims by SAWS up to one (1) year after termination of this Contract for any claims arising during the Term of this Contract, remain in effect at least two (2) years after the completion of work, except as otherwise provided by Law and Regulation. The bonds shall be issued and maintained by corporate Sureties that are licensed to conduct business in Texas. If the surety on any bond furnished by _____ to SAWS is declared bankrupt or becomes insolvent, or has its right to do business revoked in the State of Texas, then _____, at its expense, will have ten (10) days to substitute another bond and surety therefor which shall be acceptable to SAWS.

7.02 _____, SURETIES, AND PARENT CORPORATION STILL BOUND- No assignment, transfer or subletting, without the written consent of SAWS and no change in operations or preference of the Work agreed on by SAWS and _____ shall ever in any manner release or diminish the responsibility of _____ or any Surety on any bond of _____ or any guaranty, but on the contrary, such responsibility shall extend to all such changes and other matters.

ARTICLE VIII. CONTRACT ADMINISTRATION

8.01 ASSIGNMENTS AND SUBLETTING - _____ shall not assign, transfer, convey or otherwise dispose of this Contract, or any portion thereof, or any right, title or interest in, to or under the same, without the previous written consent of SAWS; provided, however, _____ may assign its rights and obligations under this Contract without the prior written consent of SAWS (but with notice to SAWS) in the case of an acquisition of equity or merger or in connection with the sale of substantially all of _____'s assets, provided such successor has a net worth and experience level at least as good as _____ had on the Effective Date of this Contract and such successor agrees in writing to be bound by the terms of this Contract; provided, further, however, that if _____ is in default under the terms of this Contract at the time of notice of or completion of the assignment, _____ shall provide SAWS with written notice of such assignment and SAWS shall have the right to terminate this Contract within 60 days of receipt of said notice. _____ shall notify SAWS, by written notification by certified mail to SAWS, 2800 US Hwy. 281 North, San Antonio, Texas, 78212, Attn: Vice President of Production and Treatment Operations, that such assignment, transfer or conveyance or other disposition of this Contract or any portion thereof, or any right, title or interest, in, to or under the same, is contemplated. If _____ does not receive written approval of such contemplated action by SAWS, within thirty days of receipt of such initial request by the SAWS' Representative, such contemplated assignment, transfer, conveyance or subletting, or other disposition of this Contract or any portion thereof, or any right, title or interest in, to, or under the same, shall be deemed disapproved. In no event shall SAWS be liable in excess of the consideration of this Contract in the case of any such assignment, transfer or conveyance of the Work or performance which is subject hereof. Notwithstanding any provision to the contrary, _____ shall be entitled to subcontract the services to be provided hereunder provided that _____ shall be solely responsible for the acts of its subcontractors in furtherance of this Contract.

8.02 LAWS, REGULATIONS AND PERMITS

- 1) _____ shall comply with all laws, ordinances, rules and regulations pertaining to the conduct of the Work. _____ shall be liable for violations of the law in connection with work provided by _____. If _____ observes that the specifications or other portions of this Contract are at variance with any laws, ordinances, rules or regulations, it shall at its sole cost and expense promptly bring about compliance with the law, ordinance, rule or regulation in question. _____ agrees not to perform work known to be contrary to any laws ordinances, rules or regulations.
- 2) **PERMITS AND LICENSES** - Unless otherwise specified herein, permits and licenses from governmental agencies which are necessary only for and during the prosecution of the Work and the subsequent guaranty period shall be secured and paid for by _____. Copies of all such permits and licenses must be mailed to SAWS, 2800 US Hwy. 281 North, San Antonio, Texas, 78212, Attn: Vice-President of Production and Treatment Operations, within five (5) working days of issuance.
- 3) **PATENTS AND ROYALTIES** - The costs involved in fees, royalties or claims for any patented invention, article, process or method that may be used upon or in a manner connected with the Work under this Contract, shall be paid by _____.

8.03 RELATIONS WITH CUSTOMERS AND THE GENERAL PUBLIC - _____ shall promptly deliver to SAWS, copies of all written complaints, objections or other adverse comments _____ receives from any customer or citizen in general regarding in any way (i) compost produced with SAWS' Biosolids, (ii) _____'s Biosolids hauling, storage or disposal of SAWS' Biosolids, (iii) composting operations at the _____ composting facility, or (iv) otherwise which involves directly or indirectly Biosolids hauling, compost production and/or compost sales and deliveries subject to this Contract. _____ shall also advise the SAWS Representative of any oral complaints involving Biosolids transportation and/or compost plant operations within two (2) calendar days of receiving them. Each such comment letter forwarded to SAWS shall include a notation of _____'s representative regarding what action _____ intends to take. _____ shall furnish SAWS with copies of correspondence and other communications until the complaint is resolved or determined by _____ to be unresolvable together with a written explanation of why the complaint cannot be or should not be resolved by _____.

8.04 RECYCLING PROGRAMS - _____ may each year during the Term of this Contract, submit the Biosolids composting progress to appropriate conservation and recycling programs for recognition, including SAWS as a participant in the program and contest. SAWS shall have the right to review all such submittals prior to submission. Any awards for the Biosolids recycling and composting program shall be in SAWS and _____'s names.

8.05 LOCAL CONSERVATION PROMOTION- _____, at SAWS' request, will participate in local convention and gardening presentations or public events promoting the use of compost made with SAWS' Biosolids.

ARTICLE IX. SAFETY PRECAUTIONS AND PROGRAMS

9.01 GENERAL- In addition to _____'S duties and obligations related to safety stated herein, _____ shall abide by the following general safety requirements:

- 1) In any emergency affecting the safety of persons or property, _____ shall act to prevent threatened damage, injury or loss.
- 2) _____ shall provide equipment and supplies necessary to administer first aid service to anyone who may be injured in connection with the Work performed by _____. Such equipment shall comply with the most current regulations of the Occupational Safety and Health Administration of the United States Department of Labor, States Department of Labor and the State of Texas Statutes relating to use, training, and maintenance of any and all first aid devices.
- 3) _____ must promptly report in writing to SAWS all accidents whatsoever arising out of, or in connection with, the performance of the Work which caused death, personal injury requiring hospitalization, or property damage in excess of \$50,000, giving full details and any statements of witnesses. In addition, if death, serious injury, or serious damage is caused, the accident then shall be reported immediately by telephone or messenger to SAWS. _____ has no duty to report to SAWS accidents or injuries to employees that are not reportable under OSHA 300.

9.02 **EMPLOYEE SAFETY** - _____ alone shall be solely responsible for the safety of its employees. _____'s agents and subcontractor's alone shall be solely responsible for their respective employees. _____ shall maintain the project site at which its work is performed and perform the Work in a manner which meets SAWS' responsibility under statutory and common law for the provision of a safe place to work. SAWS' authorized representative may, at any time, request that _____ cease operations if such representative finds that dangerous conditions exist which, in the reasonable opinion of the SAWS' Representative, may threaten the immediate safety and well-being of anyone including, but not limited to, _____'s employees, agents, or subcontractors' employees, SAWS' personnel or guests. The recommendations herein are merely to attempt to cause _____ to maintain a safe work place; provided, however, _____ is solely responsible for the means and methods for performance of the work and the safety requirements for its employees, and the work site and nothing herein shall constitute a direction of the safety procedures by SAWS.

9.03 **PUBLIC SAFETY AND CONVENIENCE** - _____ shall conduct its work so as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the WRC and the Work and to insure the protection of persons and property.

9.04 **PROTECTION OF PRIVATE PROPERTY** - _____ shall take proper measures to protect all property against injury by any process of the Work; and, in case of any injury or damage, it shall restore at its own expense, the damaged property to a condition similar or equal to that existing before such injury or damage was done, or it shall make good such injury or damage in a manner acceptable to those whose property was damaged.

ARTICLE X. CONTRACT TERMINATION & SUSPENSION

10.01 **DEFAULT**- As used in this Contract, the term "Event of Default" shall mean any one of the following:

- 1) _____ or SAWS shall fail to timely pay any obligation hereunder involving the payment of money and such default continues uncured for thirty (30) days after written notice of the default is sent to the defaulting party;

- 2) _____ or SAWS shall fail to comply with any term, provision or covenant of this Contract and such default continues uncured for thirty (30) days after written notice of the default is sent to the defaulting party;
- 3) _____ shall fail to maintain its stocks of materials (including compost) in a manner to prevent such material from being a nuisance based on Commission confirmed notice of violation due to odor, dust, flies, vector or otherwise, and _____ shall fail to cure the nuisance within fifteen (15) days or the nuisance occurs.
- 4) _____ shall fail to supply enough properly skilled workmen or trucks and equipment or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction over the Work and fails to cure such breach within fifteen (15) days of written notice.
- 5) _____ or SAWS, or any surety or guarantor of this Contract, shall become insolvent or unable to pay its debts as they become due, or shall make a transfer of its property that is fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall make an assignment for the benefit of creditors;
- 6) _____ takes any action to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any state thereof; or a petition shall be filed against _____ under any statute or _____ notifies SAWS that it knows such a petition will be filed; or the appoint of a receiver or trustee to take possession of substantially all of _____'s assets located at the _____ compost site or of _____'s interest in this Contract, or the attachment, execution or other judicial service of substantially all of _____'s assets located at the _____ compost site or of _____'s interest in this Contract;
- 7) The occurrence of any event or condition having a material adverse effect on the assets, liabilities, financial condition, business or operations of _____ as they exist on the date of this Contract, or the ability of _____ to meet its obligations under this Contract on a timely basis as provided herein.

Upon the occurrence of an event of Default, the non-defaulting party, at its option, in addition to any other remedy or right given hereunder or by law or equity, terminate this Contract by written notice to the other party.

10.02 TERMINATION BY CONTRACTOR If the Work is stopped for a period of one hundred fifty (150) consecutive working days under an order of any court or other public authority having jurisdiction, or as a result of an act of a higher governmental authority, such as a declaration of a state or federal agency prohibiting the composting of Biosolids, through no act or fault of _____ or their agents or employees, or a force majeure event that makes production of compost at the _____ compost site impossible, then _____ may upon thirty (30) additional days written notice to SAWS, terminate this Contract and recover from SAWS payment for all Work previously executed in accordance with this Contract; however, no payment shall be owed for any delays or loss of future income under this Contract. If the Work is recommenced during the thirty (30) day notice period, _____ may not terminate this Contract.

10.03 SUSPENSION OF WORK BY SAWS-SAWS may suspend the Work either partially or totally by written order whenever, in SAWS' reasonable opinion, the interests of SAWS requires the

suspension of such Work to protect the health and safety of SAWS' employees and/or the general public. Furthermore, SAWS shall have the right to stop the Work whenever such stoppage may be necessary to insure proper execution of the Work.

ARTICLE XI. DISPUTES AND DAMAGES:

11.01 **MEDIATION**- Prior to any litigation between SAWS and _____, both hereby agree that disputed matters shall first be submitted to mediation by a third party neutral mediator in Bexar County, Texas selected by the parties. Prior to any party instituting litigation under this Contract such party (the "instituting party") shall notify the other party (the "responding party") of the dispute and request that the parties enter into nonbinding mediation. The responding party and the instituting party shall meet to select a mediator and undertake mediation within twenty (20) days of the written notice the mediator shall be a neutral third party whose function shall be to assist the parties in their negotiations. The mediator may not impose his own judgment on the issues for that of the parties. If mediation is not instituted within twenty (20) days of the date of the written notice, or the matter resolved within thirty (30) days of written notice, then the other party may proceed to institute suit and the other party may respond and defend and assert counterclaims without obligations or further mediation unless ordered by the Court.

11.02 **DAMAGES**- Notwithstanding the terms and requirements of Section 11.03, and in addition to any rights or remedies of SAWS under this Contract, at law or in equity, if _____ fails to load and remove Biosolids for beneficial use as required under this Contract for a period exceeding 24 hours, excluding Saturday and Sunday, SAWS may transport and dispose of such Biosolids by hauling such Biosolids to a landfill and _____, upon demand, shall reimburse SAWS all costs of loading, hauling and disposing of such Biosolids (including tipping or landfill fees). _____ shall be entitled to a credit or offset against such disposal fees and costs equal to the sum SAWS would otherwise have paid _____ under this Contract for removal and processing into compost of such Biosolids. SAWS may continue such landfill disposal until SAWS has entered into a new Contract to remove Biosolids from SAWS for beneficial use with a replacement contractor. Furthermore, _____ acknowledges and agrees that the bidding process and negotiation of a new Contract for hauling Biosolids for beneficial use may take up to three (3) years and during which time Biosolids may be disposed of at a landfill at _____'s cost. Once a new contract is entered into with a replacement contractor, _____ shall remain obligated to reimburse SAWS for costs exceeding the contract price under this Contract for disposing of Biosolids under the provisions of this Contract for the remainder of the Term.

11.03 **ADDITIONAL COSTS AND FEES**-SAWS at its option may correct any default or breach of _____ under this Contract and _____ shall reimburse SAWS all costs incurred by SAWS, including court costs and attorneys fees. Such sums shall be payable on demand and _____ failure to make timely repayment shall be a default or breach allowing SAWS to terminate this Contract pursuant to Section 11.03.

ARTICLE XII. CONTRACT TIMES AND COMMENCEMENT OF WORK

12.01 **COMMENCEMENT OF WORK**- The Work called for in this Contract shall be commenced by _____ on January 1, 2020 (the "Commencement Date"). Under no circumstances shall the Work commence prior to _____ (i) obtaining all required permits, licenses and insurance for the Work, copies of which shall be delivered to SAWS prior to any such commencement, and (ii) completing the necessary construction and having necessary equipment in place to commence the Work (such conditions being referred to herein as the "Commencement Conditions"). The Commencement Date may be extended for up to one hundred eighty (180) days

by _____ providing written notice to SAWS prior to the Commencement Date if the Commencement Conditions are not satisfied by _____ on _____ or before the Commencement Date.

12.02 **CONTRACT PERIODS**- For purpose of computing the first contract period, the period shall extend from the Commencement Date until December 31, 2020, without regard to the actual number of days. Thereafter, each contract year shall be from January 1 to the following December 31. There shall be no adjustment in the quantities of Biosolids _____ is required to take in the first contract period.

ARTICLE XIII. TERM; EXTENSION OF CONTRACT

13.01 **EXTENSION OF CONTRACT**- _____ and SAWS, by mutual agreement, may extend the Term five (5) times for a period of one (1) additional year each. The extensions shall be on the same terms of this Contract in existence at the time of exercising the extension. The first option to extend the Term shall be exercised, if at all, by SAWS providing written notice to _____ not earlier than 180 days and not later than 90 days prior to the termination of the Contract, or subsequent Contract extensions, that SAWS would like to extend the Term of this Contract and _____ and SAWS both agreeing in writing by no later than 60 days prior to the termination of the Contract, or subsequent extensions, to extend the term of this Contract. The second option to extend the term shall be exercised, if at all, by SAWS providing written notice to _____ not earlier than June 30, 2019 and not later than September 30, 2019 that SAWS would like to extend the term of this Contract and _____ and SAWS both agreeing in writing by October 31, 2019 to extend the term of this Contract. All references in this Contract to the phrase "Term" shall include the initial term and any extension of the Term properly exercised pursuant to this Section 13.01.

ARTICLE XIV. CONTRACT CHANGES

14.01 **AMENDMENTS**- This Contract may be changed only by written Amendment executed by SAWS and _____.

ARTICLE XV. MISCELLANEOUS

15.01 **ENTIRE AGREEMENT**-This CONTRACT, is the entire and integrated agreement between the Owner and _____ regarding the Biosolids from the WRC and supersedes all prior negotiations, representations or agreements, either written or oral.

15.02 **GENERAL**- Any and all representations, conditions and warranties made by _____ under this Contract including, without limitation, the insurance provisions under Article V of this Contract are of the essence of this Contract and shall survive the execution and delivery of it, and all statements contained in any document required by SAWS whether delivered at the time of the execution, or at a later date, shall constitute representations and warranties hereunder.

15.03 **STARTUP DATE**-The Startup Date of this Contract shall be January 1, 2020. In the event _____ fails to commence taking Biosolids on the Startup Date, _____ shall be in default and SAWS shall be entitled to all remedies at law and under this Contract.

15.04 **NOTICES**- All notices hereunder shall be in writing and shall be deemed effective when delivered in person to the addressee of the notice or when deposited in the U.S. Mail or a nationally recognized overnight carrier, such as UPS or Federal Express, addressed to the party to receive the notice as follows:

If to SAWS:

San Antonio Water System
Attn: Jeff Haby
Vice President of Production and Treatment Operations
2800 US Hwy. 281 North
San Antonio, Texas 78212

Copy to:

San Antonio Water System
Attn: Ms. Nancy Belinsky
Vice President General Counsel
2800 US Hwy. 281 North
San Antonio, Texas 78212

If to _____
Attn: _____

- 15.05 RIGHT OF ENTRY-SAWS shall have the right during normal business hours to enter the _____ compost site: (a) to inspect the general condition and state of the compost facility, (b) for any other reasonable purpose related to the WORK.
- 15.06 WAIVER OF BREACH-The waiver by SAWS of any breach of any provision of this Contract shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Contract.
- 15.07 TIME OF ESSENCE- Time is expressly declared to be of the essence in this Contract.
- 15.08 BINDING OF HEIRS AND ASSIGNS-Subject to the provisions of this Contract pertaining to assignment of _____'s interest, all provisions of this Contract shall extend to and bind, or inure to the benefit not only of the parties to this Contract but to the heirs, executors, representatives, successors, and permitted assigns of SAWS or _____.
- 15.09 RIGHTS AND REMEDIES CUMULATIVE- The rights and remedies by this Contract are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.
- 15.10 TEXAS LAW TO APPLY-This Contract shall be construed under and in accordance with the laws of the State of Texas. Venue shall be proper in Bexar County, Texas only.
- 15.11 LEGAL CONSTRUCTION-In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Contract shall be construed as if such invalid, illegal, or unenforceable provision has never been contained herein.

15.12 PRIOR AGREEMENTS SUPERSEDED-This Contract constitutes the sole and only agreement of the parties to this Contract and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

15.13 SECURITY REQUIREMENTS - _____ shall comply with the security requirements attached as Attachment 3 hereto.

15.14 NO THIRD PARTY BENEFICIARIES - Nothing in this Contract shall be interpreted as providing any rights to any third parties under this Contract (other than the parties hereto) and the parties expressly acknowledge and agree that there are no intended third party beneficiaries to this Contract.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the ____ day of _____, 2019.

SAN ANTONIO WATER SYSTEM

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Schedule of Exhibits:

Exhibit A-SAWS Standard Laboratory Rates

Attachment 1 - Standards for SAWS' Biosolids delivered to _____

Attachment 2 - Standards for Beneficial Use of Biosolids

Attachment 3 – Security Requirements

EXHIBIT A
SAWS Standard Laboratory Rates

Laboratory Test/ Method	Reporting Limit	2017 Fees
Ammonia Distillation Method: EPA 350.2	125 mg/L	\$ 40.52
Nitrogen, total Kjeldahle (TKN) Method: EPA 351.3	200 mg/kg	\$ 39.08
Phosphorus - Total Method: EPA 365.2	2500 mg/kg	\$ 25.92
Total Solids	percent solids	\$ 14.89
Mercury by CVAA Method: SW 846 7471A	0.04 mk/kg	\$ 34.74
Metals Method: SW 846 6010C		\$ 16.21
Fecal Coliform - Multiple Tube Fermentation Method: SM 9221B	2 MPN/100 ml	\$ 20.84
IC (Nitrate-N and Nitrite - N) Method: EPA 300.0 SW 846 9056M		\$ 17.99

For the most current accreditation please visit the TCEQ Website
at
https://www.tceq.texas.gov/agency/qa/env_lab_accreditation.html

ATTACHMENT 1
STANDARDS FOR SAWS' BIOSOLIDS DELIVERED TO _____

The Biosolids delivered by SAWS to _____ will be anaerobically digested sludge that has been dewatered by belt filter press, drying bed or any other approved dewatering method. The biosolids will meet Class B (as defined by 40 CFR Part 503 and 30 TAC Chapter 312) pathogen reduction requirements. The biosolids will be reasonably free of foreign material but some quantities of plastic and other solid materials may be present.

Pathogen Reduction Class B – Presently using method (b) (2)

(b) *Sewage sludge—Class B.* (1)(i) The requirements in either §503.32(b)(2), (b)(3), or (b)(4) shall be met for a sewage sludge to be classified Class B with respect to pathogens.

(ii) The site restrictions in §503.32(b)(5) shall be met when sewage sludge that meets the Class B pathogen requirements in §503.32(b)(2), (b)(3), or (b)(4) is applied to the land.

(2) *Class B—Alternative 1.* (i) Seven representative samples of the sewage sludge that is used or disposed shall be collected.

(ii) The geometric mean of the density of fecal coliform in the samples collected in paragraph (b)(2)(i) of this section shall be less than either 2,000,000 Most Probable Number per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

(3) *Class B—Alternative 2.* Sewage sludge that is used or disposed shall be treated in one of the Processes to Significantly Reduce Pathogens described in appendix B of this part.

(4) *Class B—Alternative 3.* Sewage sludge that is used or disposed shall be treated in a process that is equivalent to a Process to Significantly Reduce Pathogens, as determined by the permitting authority.

Vector Attraction Reduction – Presently using method (b) (1)

503.33 Vector attraction reduction.

(a)(1) One of the vector attraction reduction requirements in §503.33 (b)(1) through (b)(10) shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.

(2) One of the vector attraction reduction requirements in §503.33 (b)(1) through (b)(8) shall be met when bulk sewage sludge is applied to a lawn or a home garden.

(3) One of the vector attraction reduction requirements in §503.33 (b)(1) through (b)(8) shall be met when sewage sludge is sold or given away in a bag or other container for application to the land.

(4) One of the vector attraction reduction requirements in §503.33 (b)(1) through (b)(11) shall be met when sewage sludge (other than domestic septage) is placed on an active sewage sludge unit.

(5) One of the vector attraction reduction requirements in §503.33 (b)(9), (b)(10), or (b)(12) shall be met when domestic septage is applied to agricultural land, forest, or a reclamation site and one of the vector attraction reduction requirements in §503.33 (b)(9) through (b)(12) shall be met when domestic septage is placed on an active sewage sludge unit.

(b)(1) The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent (see calculation procedures in “Environmental Regulations and Technology—Control of Pathogens and Vector Attraction in Sewage Sludge”, EPA-625/R-92/013, 1992, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268).

(2) When the 38 percent volatile solids reduction requirement in §503.33(b)(1) cannot be met for an anaerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. When at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent, vector attraction reduction is achieved.

(3) When the 38 percent volatile solids reduction requirement in §503.33(b)(1) cannot be met for an aerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge that has a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. When at the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent, vector attraction reduction is achieved.

(4) The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

(5) Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

(6) The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

(7) The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials.

(8) The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials.

(9)(i) Sewage sludge shall be injected below the surface of the land.

(ii) No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

(iii) When the sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

(10)(i) Sewage sludge applied to the land surface or placed on an active sewage sludge unit shall be incorporated into the soil within six hours after application to or placement on the land, unless otherwise specified by the permitting authority.

(ii) When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

(11) Sewage sludge placed on an active sewage sludge unit shall be covered with soil or other material at the end of each operating day.

(12) The pH of domestic septage shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 30 minutes.

[58 FR 9387, Feb. 19, 1993, as amended at 64 FR 42571, Aug. 4, 1999]

Pollution limits.

503.13 Pollutant limits

(a) *Sewage sludge.* (1) Bulk sewage sludge or sewage sludge sold or given away in a bag or other container shall not be applied to the land if the concentration of any pollutant in the sewage sludge exceeds the ceiling concentration for the pollutant in Table 1 of §503.13.

(2) If bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site, either:

(i) The cumulative loading rate for each pollutant shall not exceed the cumulative pollutant loading rate for the pollutant in Table 2 of §503.13; or

(ii) The concentration of each pollutant in the sewage sludge shall not exceed the concentration for the pollutant in Table 3 of §503.13.

(3) If bulk sewage sludge is applied to a lawn or a home garden, the concentration of each pollutant in the sewage sludge shall not exceed the concentration for the pollutant in Table 3 of §503.13.

(4) If sewage sludge is sold or given away in a bag or other container for application to the land, either:

(i) The concentration of each pollutant in the sewage sludge shall not exceed the concentration for the pollutant in Table 3 of §503.13; or

(ii) The product of the concentration of each pollutant in the sewage sludge and the annual whole sludge application rate for the sewage sludge shall not cause the annual pollutant loading rate for the pollutant in Table 4 of §503.13 to be exceeded. The procedure used to determine the annual whole sludge application rate is presented in appendix A of this part.

(b) *Pollutant concentrations and loading rates—sewage sludge.*

Table 3 of §503.13—Pollutant Concentrations

Pollutant	Monthly average concentration (milligrams per kilogram)¹
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

¹Dry weight basis.

(4) *Annual pollutant loading rates.*

ATTACHMENT 2
STANDARDS FOR BENEFICIAL USE OF BIOSOLIDS

Requirements of _____ for processing of SAWS biosolids into 40 CFR 503 or 30 TAC 312 Class A compost.

503.32 Pathogens

(a) *Sewage sludge—Class A.* (1) The requirement in §503.32(a)(2) and the requirements in either §503.32(a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) shall be met for a sewage sludge to be classified Class A with respect to pathogens.

(2) The Class A pathogen requirements in §503.32 (a)(3) through (a)(8) shall be met either prior to meeting or at the same time the vector attraction reduction requirements in §503.33, except the vector attraction reduction requirements in §503.33 (b)(6) through (b)(8), are met.

(3) *Class A—Alternative 1.* (i) Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10 (b), (c), (e), or (f).

(ii) The temperature of the sewage sludge that is used or disposed shall be maintained at a specific value for a period of time.

(A) When the percent solids of the sewage sludge is seven percent or higher, the temperature of the sewage sludge shall be 50 degrees Celsius or higher; the time period shall be 20 minutes or longer; and the temperature and time period shall be determined using equation (2), except when small particles of sewage sludge are heated by either warmed gases or an immiscible liquid.

$$D = \frac{131,700,000}{10^{0.1400t}} \quad \text{Eq. (2)}$$

Where,

D=time in days.

t=temperature in degrees Celsius.

(B) When the percent solids of the sewage sludge is seven percent or higher and small particles of sewage sludge are heated by either warmed gases or an immiscible liquid, the temperature of the sewage sludge shall be 50 degrees Celsius or higher; the time period shall be 15 seconds or longer; and the temperature and time period shall be determined using equation (2).

(C) When the percent solids of the sewage sludge is less than seven percent and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using equation (2).

(D) When the percent solids of the sewage sludge is less than seven percent; the temperature of the sewage sludge is 50 degrees Celsius or higher; and the time period is 30 minutes or longer, the temperature and time period shall be determined using equation (3).

$$D = \frac{50,070,000}{10^{0.1400t}} \quad \text{Eq. (3)}$$

Where,

D=time in days.

t=temperature in degrees Celsius.

4) *Class A—Alternative 2.* (i) Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10 (b), (c), (e), or (f).

(ii)(A) The pH of the sewage sludge that is used or disposed shall be raised to above 12 and shall remain above 12 for 72 hours.

(B) The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12.

(C) At the end of the 72 hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

(5) *Class A—Alternative 3.* (i) Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10 (b), (c), (e), or (f).

(ii)(A) The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains enteric viruses.

(B) When the density of enteric viruses in the sewage sludge prior to pathogen treatment is less than one Plaque-forming Unit per four grams of total solids (dry weight basis), the sewage sludge is Class A with respect to enteric viruses until the next monitoring episode for the sewage sludge.

(C) When the density of enteric viruses in the sewage sludge prior to pathogen treatment is equal to or greater than one Plaque-forming Unit per four grams of total solids (dry weight basis), the sewage sludge is Class A with respect to enteric viruses when the density of enteric viruses in the sewage sludge after pathogen treatment is less than one Plaque-forming Unit per four grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the enteric virus density requirement are documented.

(D) After the enteric virus reduction in paragraph (a)(5)(ii)(C) of this section is demonstrated for the pathogen treatment process, the sewage sludge continues to be Class A with respect to enteric viruses when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in paragraph (a)(5)(ii)(C) of this section.

(iii)(A) The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains viable helminth ova.

(B) When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is less than one per four grams of total solids (dry weight basis), the sewage sludge is Class A with respect to viable helminth ova until the next monitoring episode for the sewage sludge.

(C) When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is equal to or greater than one per four grams of total solids (dry weight basis), the sewage sludge is Class A with respect to viable helminth ova when the density of viable helminth ova in the sewage sludge after pathogen treatment is less than one per four grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the viable helminth ova density requirement are documented.

(D) After the viable helminth ova reduction in paragraph (a)(5)(iii)(C) of this section is demonstrated for the pathogen treatment process, the sewage sludge continues to be Class A with respect to viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in paragraph (a)(5)(iii)(C) of this section.

(6) *Class A—Alternative 4.* (i) Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10 (b), (c), (e), or (f).

(ii) The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10 (b), (c), (e), or (f), unless otherwise specified by the permitting authority.

(iii) The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or give away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10 (b), (c), (e), or (f), unless otherwise specified by the permitting authority.

(7) *Class A—Alternative 5.* (i) Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella*, sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10(b), (c), (e), or (f).

(ii) Sewage sludge that is used or disposed shall be treated in one of the Processes to Further Reduce Pathogens described in appendix B of this part.

(8) *Class A—Alternative 6.* (i) Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella*, sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in §503.10(b), (c), (e), or (f).

(ii) Sewage sludge that is used or disposed shall be treated in a process that is equivalent to a Process to Further Reduce Pathogens, as determined by the permitting authority.

(b) *Sewage sludge—Class B.* (1)(i) The requirements in either §503.32(b)(2), (b)(3), or (b)(4) shall be met for a sewage sludge to be classified Class B with respect to pathogens.

(ii) The site restrictions in §503.32(b)(5) shall be met when sewage sludge that meets the Class B pathogen requirements in §503.32(b)(2), (b)(3), or (b)(4) is applied to the land.

(2) *Class B—Alternative 1.* (i) Seven representative samples of the sewage sludge that is used or disposed shall be collected.

(ii) The geometric mean of the density of fecal coliform in the samples collected in paragraph (b)(2)(i) of this section shall be less than either 2,000,000 Most Probable Number per gram of total

solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

(3) *Class B—Alternative 2.* Sewage sludge that is used or disposed shall be treated in one of the Processes to Significantly Reduce Pathogens described in appendix B of this part.

(4) *Class B—Alternative 3.* Sewage sludge that is used or disposed shall be treated in a process that is equivalent to a Process to Significantly Reduce Pathogens, as determined by the permitting authority.

(5) *Site restrictions.* (i) Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.

(ii) Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for four months or longer prior to incorporation into the soil.

(iii) Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than four months prior to incorporation into the soil.

(iv) Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.

(v) Animals shall not be grazed on the land for 30 days after application of sewage sludge.

(vi) Turf grown on land where sewage sludge is applied shall not be harvested for one year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.

(vii) Public access to land with a high potential for public exposure shall be restricted for one year after application of sewage sludge.

(viii) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

(c) *Domestic septage.* (1) The site restrictions in §503.32(b)(5) shall be met when domestic septage is applied to agricultural land, forest, or a reclamation site; or

(2) The pH of domestic septage applied to agricultural land, forest, or a reclamation site shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 30 minutes and the site restrictions in §503.32 (b)(5)(i) through (b)(5)(iv) shall be met.

[58 FR 9387, Feb. 19, 1993, as amended at 64 FR 42571, Aug. 4, 1999]

Appendix B to Part 503—Pathogen Treatment Processes

A. Processes To Significantly Reduce Pathogens (PSRP)

1. Aerobic digestion—Sewage sludge is agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 40 days at 20 degrees Celsius and 60 days at 15 degrees Celsius.
2. Air drying—Sewage sludge is dried on sand beds or on paved or unpaved basins. The sewage sludge dries for a minimum of three months. During two of the three months, the ambient average daily temperature is above zero degrees Celsius.
3. Anaerobic digestion—Sewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 35 to 55 degrees Celsius and 60 days at 20 degrees Celsius.
4. Composting—Using either the within-vessel, static aerated pile, or windrow composting methods, the temperature of the sewage sludge is raised to 40 degrees Celsius or higher and remains at 40 degrees Celsius or higher for five days. For four hours during the five days, the temperature in the compost pile exceeds 55 degrees Celsius.
5. Lime stabilization—Sufficient lime is added to the sewage sludge to raise the pH of the sewage sludge to 12 after two hours of contact.

B. Processes to Further Reduce Pathogens (PFRP)

1. Composting—Using either the within-vessel composting method or the static aerated pile composting method, the temperature of the sewage sludge is maintained at 55 degrees Celsius or higher for three days.

Using the windrow composting method, the temperature of the sewage sludge is maintained at 55 degrees or higher for 15 days or longer. During the period when the compost is maintained at 55 degrees or higher, there shall be a minimum of five turnings of the windrow.

2. Heat drying—Sewage sludge is dried by direct or indirect contact with hot gases to reduce the moisture content of the sewage sludge to 10 percent or lower. Either the temperature of the sewage sludge particles exceeds 80 degrees Celsius or the wet bulb temperature of the gas in contact with the sewage sludge as the sewage sludge leaves the dryer exceeds 80 degrees Celsius.
3. Heat treatment—Liquid sewage sludge is heated to a temperature of 180 degrees Celsius or higher for 30 minutes.
4. Thermophilic aerobic digestion—Liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the sewage sludge is 10 days at 55 to 60 degrees Celsius.

5. Beta ray irradiation—Sewage sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20 degrees Celsius).

(6) Gamma ray irradiation—Sewage sludge is irradiated with gamma rays from certain isotopes, such as ⁶⁰ Cobalt and ¹³⁷ Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20 °Celsius).

7. Pasteurization—The temperature of the sewage sludge is maintained at 70 degrees Celsius or higher for 30 minutes or longer.

[58 FR 9387, Feb. 19, 1993, as amended at 64 FR 42573, Aug. 4, 1999]

ATTACHMENT 3 SECURITY PROCEDURES

If work will be conducted on SAWS property, on SAWS infrastructure, on a SAWS customer's property, or involve any SAWS networks, or any SAWS facility, the Contractor shall ensure a Prime Contractor Data Form (PCDF) and a "Background Screening Letter" (provided by a third party background screening service) are properly completed for all employees and sub-contractors performing work under this Contract and is on file with SAWS Security prior to work commencement. Background checks must at a minimum include National Criminal Check, Verify Employment Eligibility (E-Verify), and Terrorist Watch List with this information being provided in the Background Screening Letter from the third party screening service. Any person found to have an unacceptable background check will not be allowed to perform work under this Contract (however, at a SAWS sole discretion a waiver may be given by SAWS Security for an unacceptable finding provided that it must first be approved and signed off on by the Director of SAWS Security). Any Sub-Contractors performing work must also be listed in the PCDF and the Background Screening Letter. Contractor shall be responsible for the accuracy of information on the PCDF and the Background Screening Letter, and for obtaining any and all required items (badges and parking tags) necessary to fulfilling the work under this Agreement. The PCDF and Background Screening Letter must be sent electronically to securitygroup@saws.org. Contractor shall advise the SAWS Project Manager/Inspector of any employee terminations or changes to personnel performing work under this Agreement and the Contractor shall immediately turn in any and all badges and/or parking tags of employees who are terminated or no longer performing work under this Contract. If Contractor becomes aware or reasonably should have become aware of any changes in the information contained in the PCDF or the Background Screening Letters, Contractor shall immediately notify the SAWS Project Manager/Inspector and provide updated PCDF and Background Screening Letters, with copies to securitygroup@saws.org.

Contractor, its employees, and agents shall obtain a SAWS photo identification badge (Contractor's Badge) and parking tag, prior to any work on SAWS property, which shall be used only for purposes necessary to perform the work under this Agreement. SAWS Badge Office hours are Monday, Wednesday and Friday 9:00am to 12:00pm excluding SAWS holidays (hours are subject to change). Security staff can be contacted at (210) 233-3177 or (210) 233-3338. Once the project is completed the Contractor shall return all badges and parking tags to the Security Office. Contractor who does not return the badges or parking tags are not in compliance with these procedures.

SAWS facilities require a SAWS employee to physically escort the Contractor at all times. SAWS may, in its sole discretion, waive the escort requirements if the PCDF and a "clean" Background Screening Letter, signed by an authorized representative of a third party background screening service are approved by the SAWS Project Manager and SAWS Security. Waiver of the escort requirement shall only be through a written correspondence to Contractor from SAWS Security.

Sub-Contractors must always be under escort of Contractor while performing work on any SAWS property or asset. Sub-Contractors must display either a company photo badge, with name, or a valid governmental identification card at all times while working on any SAWS property. The contractor is solely responsible for the actions of its employees, agents, sub-contractors and consultants.

Contractor is responsible for being in compliance with the SAWS security requirements and for maintaining its security of SAWS property, infrastructure, SAWS customer's property, networks, and facilities for the length of the project. Security incidents must be reported to SAWS Security immediately at (210) 233-3338.

If the Contractor plans to stage or store their property such as equipment, storage boxes, tools, trailers or high-priced supplies needed for the project on SAWS Production or Treatment sites the Contractor will be responsible to provide a security guard, who will be subject to SAWS prior approval, when the Contractor is not on the site working.

If the Contractor plans to leave the site unsecure or open during the project they must provide an employee or SAWS approved security guard to monitor ingress and egress to the site. If the Contractor plans to leave the site open or unsecure when not working on the site the Contractor must provide a SAWS approved security guard.

SAWS provides for security on its sites. If Contractor takes any action that diminishes SAWS security, Contractor will be responsible for providing additional security requirements at its expense. Some examples of additional requirements that SAWS may require include hiring of SAWS approved security guards, temporary fencing, mobile Closed Circuit Television Monitoring trailer(s), or extra lighting. Notwithstanding anything herein to the contrary, any provisions in these Security Procedures that may appear to give SAWS the right to direct Contractor as to details of doing any work under this Contract or to exercise a measure of control over any security measures or such work shall be deemed to mean that Contractor shall follow the desires of SAWS in the **results** of the work or security measures only.

Advance coordination by Contractor with SAWS Security for these security requirements is necessary to ensure no delays with timely performance of work. Any other provision of this Contract notwithstanding, in the event Contractor fails to comply with SAWS Security requirements, SAWS may, with no penalty, claim of any nature (including but not limited to breach of contract) against SAWS by the Contractor:

- Issue a Work Stoppage Order until the security violation (s) are remedied
- Ask any unidentified or improperly identified person or equipment to leave SAWS site immediately and not return until items or deficiencies are remedied to SAWS satisfaction.

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