



REQUEST FOR PROPOSALS
for
WASTEWATER TREATMENT PLANT CONTRACT OPERATIONS

ISSUE DATE: June 24, 2020

MANDATORY PRE-PROPOSAL FACILITIES REVIEW: July 8, 2020 at 10:00 am

RESPONSES DUE: (July 23, 2020) at 2:00 PM

**City of Willows
201 N. Lassen
Willows, CA 95988**

INQUIRIES: Direct questions or clarifications on Request for Proposal documents to:

**Steve Soeth, Community Development Services Director
(530) 934-7041
ssoeth@cityofwillows.org**

Request for Proposals
Wastewater Treatment Plant Contract Operations
City of Willows

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Attachment A – **Draft** Professional Services Contract

Section 1 - INTRODUCTION

The City has operated its wastewater treatment plant (WWTP) through contract operations since converting to advanced treatment in 2007. The contract operations model has been successful, but the change to advanced treatment has increased the cost of wastewater service and the community is very sensitive to rates. The City also maintains the sewer collection system, including pump stations, and plans to continue to provide these services with City personnel. The current operations contract for the WWTP will expire on October 31, 2020. The City would like to receive proposals from well-qualified proposers to continue to successfully operate the treatment plant through contract-operations. The City requests professional, qualified firms to submit a proposal as described herein. To be seriously considered, respondents and their team members should have successful experience in contract operations of advanced, municipal wastewater treatment plants. Experience in California is preferred.

Section 2 - BACKGROUND

The City completed construction on the current wastewater treatment plant (the "Plant") in 2007. This construction involved the upgrade of the treatment process from secondary to tertiary. The current Plant has a permitted average dry weather flow capacity of 1.2 million gallons per day and produces disinfected tertiary recycled water through extended aeration, clarification, filtration, chlorine disinfection and dechlorination. The plant includes flow equalization as well as two sludge drying lagoons. The Plant discharges year-round to surface waters via an agricultural drain which is tributary to Logan Creek.

The Plant is permitted by the State of California through the Central Valley Regional Water Quality Control Board (RWQCB). The most recent permit was issued by the RWQCB in 2016; Waste Discharge Requirements Order R5-2016-0090 - NPDES No. CA0078034 (i.e. "Permit", see Schedule 4 of Attachment A). The Plant's classification is a Class IV as defined in the California Code of Regulations, Title 23, Division 3, Chapter 26, section 3675.

Section 3 - SCOPE OF SERVICES TO BE PROVIDED

The expectations of the successful Contract Operator are summarized as follows:

- Supply appropriately certified, highly qualified and professional staff.
- Operate the City's wastewater treatment plant (WWTP) in compliance with all applicable state and federal requirements, including the Permit.
- Respond with qualified and certified staff within 45 minutes of notification or realization of operational interference, upset, power outage, regulatory inspection, or other emergency, 24 hours/day, 365 days/year.
- Purchase and maintain inventories for all chemicals and materials required for plant operations including, but not limited to, sodium hypochlorite, sodium bisulfite, and laboratory chemicals.
- Purchase outside services, if required, for all plant operations, maintenance, or other contractual obligations.
- Maintain the WWTP and associated facilities as required to keep the facility in excellent condition.
- Perform all field and laboratory analyses required by the Permit in conformance with State

requirements for laboratory quality assurance, quality control, detection levels, and certifications/licenses.

- Present technical reports to the RWQCB and City staff.
- Provide technical expertise on various plant performance, operation, and compliance issues as may be required for operation in compliance with Permit.
- Represent the City before the RWQCB and their staff during inspections and meetings.
- Perform equipment maintenance activities at the WWTP.
- Sample, test and report on stormwater samples.
- Maintain required records on site for inspection by City staff and State regulators.
- Complete and submit all reports described in the Permit in a timely manner.
- Notify and provide written reports to State regulators and City officials as requested in the event of Permit violation.
- Represent the City professionally in dealing with the public and regulators.

For a more complete listing of services required, please see the Draft Contract attached as Attachment A. Please note that this Draft Contract is for reference purposes only and should not be considered as the contract to be negotiated. As outlined in section 4.1 b) of the Draft Contract, the City will be responsible for payment of utility and property-related charges.

Section 4 – CONTRACT TERM

The City intends to contract for a base-term as outlined below with provision for extension of an additional contract term upon mutual agreement of the parties. The City would like proposals for two options.

- Option 1 - A base term of five years with provisions for a single, five-year extension.
- Option 2 – A base term of ten years with provisions for up to two, five-year extensions.

Section 5 – SUBMITTAL REQUIREMENTS

To be considered, respondents' proposals shall include the following items:

Transmittal Letter – Proposals shall include a transmittal letter, not exceeding two-pages which provides an overview of their proposal, their team members, their experience/qualifications, and any other information relevant to the solicitation.

Approach – The proposal should provide a narrative describing the anticipated approach to the elements described in the Scope of Services section of this request and Draft Contract. The proposal should be presented in sufficient detail to convey a clear understanding of the tasks and services included.

Staffing – Proposals must include a staffing plan and organizational chart which includes the specific positions proposed for the contract and their duties/role on the team. The licensing and minimum qualifications for each position shall be included. The City recognizes it may not be possible to definitively identify every member of the team. However, the quality of the personnel provided is a key consideration of the City. Therefore, if respondents cannot commit to specific team members, they are encouraged to provide a listing of staff from which the Willows plant staff will be chosen.

Relevant licenses and certificates shall be presented in the submittal.

Work Plan – Proposals shall include a work plan that outlines the services proposed and contains the staffing levels, positions and responsibilities for each member of the proposed team. The work plan should identify all tasks to be performed by the team members and the relative time each would be expected to spend on various tasks. The work plan must also identify all services anticipated to be provided by third-party vendors. Any deviations from the services outlined in the attached Draft Professional Services Contract should be clearly stated.

Cost Proposal – While proposals will be evaluated based on their overall value, the cost of the services will be a major factor in determining the preferred Contract Operator. Proposals shall contain the respondents best-price offer to provide the requested contract services for both contract term options identified in Section 4. For the purpose of preparing their cost proposal, respondents should assume the provisions outlined in the attached Draft Professional Services Contract are in place, including but not limited to the City’s payment of all property-related charges (Section 4.1 a)), the City’s annual contribution towards repair and maintenance (Schedule 5, section 1), and the City’s payment for all facility-related permits and licenses.

Through the term of an operations contract, additional fees may be negotiated for services required outside the scope described herein. The proposal must include a rate sheet for all professional and technical personnel and any associated services that may be utilized in the course of providing additional contract operation services. The company mark-up on subcontracted services shall also be included. The rates submitted are intended to be attached to the contract and used as a basis to negotiate fees for work which may be performed outside the scope of the work originally agreed.

Experience – Proposals shall include an overview of the experience of the company and the proposed team providing the requested services. This shall include the identification of all subconsultants/subcontractors and the respondents experience working with each of these subs. Resumes and other material may be included as an attachment to the proposal, however the page limit for such items related to experience shall be limited to a maximum of twelve pages.

Respondents should demonstrate knowledge and experience in the following areas to be considered qualified:

- Understanding of wastewater treatment processes and technologies,
- Wastewater treatment process control, analysis, and management,
- NPDES permit compliance,
- Federal and State environmental quality and wastewater regulations,
- Operation of similar wastewater treatment plants,
- Wastewater sampling, monitoring, analysis, and reporting,
- Laboratory practices, quality assurance, quality control, and detection level requirements.

References – Proposals shall include references. The name, position, contact information, and relationship with each reference shall be included. At a minimum, three references shall be provided for each of the following:

- Corporate references - Municipal wastewater treatment clients with small, advanced treatment and surface water discharge, preferably in California.
- Proposed Plant Manager/Chief Plant Operator – References should be from independent clients and for the position of CPO if possible.
- Proposed Shift Supervisor - References should be from independent clients and for the position of shift supervisor if possible.

Exceptions – Proposals shall include an identification of any and all exceptions taken to this RFP and/or the contract language, including insurance provisions. All exceptions should be explained and propose alternative language for the City’s consideration. The City reserves the right to reject any proposals which contains exceptions.

Responsibility – Each proposal must contain the following questions and clear, concise responses:

- a) Have you ever defaulted on a contract? If yes, please provide the year(s), entity(s), and reasons.
- b) In the past five years, has any claim or legal action been filed in court or arbitration against your company by a client you have provided similar services to? If yes, please explain.
- c) Has your firm ever been suspended or debarred by any government agency? If yes, please explain.

Financial Information – Proposals shall include a current credit rating from Dun & Bradstreet, Supplier Qualifier Report.

Section 6 – SUBMITTAL, SELECTION PROCESS AND DATES

Proposals shall conform to the requirements of this RFQ&P, with special attention given to the requirements of Sections 4 and 5. The proposal shall be signed by someone authorized by the proposer to execute a contract between the City and proposer. Proposal packages shall consist of:

- One signed, unbound original,
- One electronic version (in PDF format), and
- Three (3) bound copies of the proposal.

Proposals must be received and date-stamped by the City no later than **2:00 pm, Thursday, July 23, 2020**. Proposals shall be clearly marked “Request for Qualifications and Proposals, Wastewater Treatment Plant Contract Operations, City of Willows” and submitted to:

**City of Willows
Public Works
201 N. Lassen
Willows, CA 95988**

Submittals received after this time will not be considered.

Section 7 – EVALUATION OF PROPOSALS

It is the City's intent to enter into an agreement with a single firm to perform the services described in this RFQ&P. Submittals will be evaluated by a panel appointed by the City Manager. Evaluators will review each submittal independently and rank them in consideration of the following criteria:

- Completeness and responsiveness of the submittal package,
- Demonstrated understanding of the services required,
- Quality, experience and ability of the proposed staff,
- Understanding of discharge, monitoring, and reporting requirements included in the Permit,
- Ability and experience of the company and team operating similar municipal facilities,
- Fee for services,
- Expertise evaluating wastewater treatment and disposal options and costs,
- Demonstrated success transitioning into and out of contract plant operations,
- Knowledge of wastewater/environmental regulations,
- Success communicating with governmental agencies and general public,
- Ability to complete and present quality reports,
- Ability and experience performing the work requested in this RFP.

It is the intent of the City to contract with the firm that, in the City's opinion, best meets the needs of the community at the lowest cost. Though the fee to perform the work is very important, it is not required for the City to contract with the firm having the lowest fee. The work described in this RFQ&P requires certain expertise and qualifications which will be considered in addition to the cost of services.

Once submittal evaluation has been completed, the City *may* invite the highest- ranking firm or firms to interview with the panel and present their proposal and qualifications. Final ranking by the evaluation panel may be made upon completion of the interview process, if any.

City staff will recommend to the City Council that the City enter into an agreement for contract services with the highest ranked firm. The successful firm may be asked to present their qualifications and proposal to the City Council when the recommendation is made. The final selection will be made by the City Council. If an agreement with the first ranked firm cannot be finalized, the City may elect to proceed to negotiate an agreement with the next highest ranked firm.

This RFQ&P does not commit the City to award a contract, to enter into an agreement, or to pay any cost incurred in the preparation of a proposal from any respondent. The City reserves the right, at its sole discretion, to reject any and all responses to this RFQ&P for any reason and to waive irregularities.

Please note that in order to have their proposal considered, each respondent must have an employee of the firm submitting the proposal attend the mandatory pre-proposal meeting and site review outlined in Section 10 below and sign the attendance sheet.

Section 8 – GENERAL TERMS AND CONDITIONS

Limitation - The RFP does not commit the City to award a contract, to pay any cost incurred in the preparation of the Consultant's proposal, or to procure or contract for services or supplies. The City is not responsible for proposals that are delinquent, lost, mis-marked, and sent to an address other than that given above, or sent by mail or courier service. The City reserves the right to accept or reject any or all RFP responses received as a result of this request or to cancel all or part of this RFP.

Public Records - All proposals shall become the property of the City and will become public records and, as such, may be subject to public review.

Contract Agreement - The contents of the submitted proposal will be relied upon by the City and may be and incorporated into the awarded contract and, if so, shall become a contractual obligation. Failure of the Consultant to agree to include the proposal as part of the contractual agreement will result in cancellation of the award. The City reserves the right to reject those parts that do not meet with the approval of the City, or to modify the Scope of Services, as agreed by Consultant, in the final negotiated contract.

Compliance with Applicable Laws - All services provided under this proposal shall comply with all applicable laws and regulations, including current safety orders of the California Department of Industrial Relations and CAL/O.S.H.A.

Insurance - Contractors providing services to the City are required to furnish evidence of insurance coverage as detailed in Attachment A.

Section 9 – COMMUNICATION AND QUESTIONS

Any questions regarding this RFQ&P shall be directed to Steve Soeth, Community Development Services Director, ssoeth@cityofwillows.org, 201 North Lassen Street, Willows, CA 95988, 530-934-7041.. All questions shall be made in writing via letter or email. All questions must be received no later than July 13 to be considered. Responses to questions, if any, will be made by posting to the City's website no later than 7 days before the posted submittal deadline.

Section 10 – MANDATORY PRE-PROPOSAL REVIEW OF FACILITIES

In order to have their proposal considered, all respondents must have an employee of the firm submitting the proposal attend the Mandatory Pre-Proposal Review of Facilities and sign the attendance sheet provided at the review. The review will be held at Willows City Hall at 10:00 a.m. on July 8, 2020. The purpose of this site review is to allow respondents to examine the site and facilities. Please note that the City does not have staff with background wastewater operations or experience operating the facilities. Therefore, attendees should not expect the City to answer operational questions related to the facility. The City's current contract operator will not be available to answer any questions from attendees. All attendees will be responsible for supplying their own COVID-19 related personal protective equipment if/as required by the Glenn County Health Department. Also, all attendees who wish to tour the treatment plant will be required to have Cal-OSHA approved hard hats and vests.

DRAFT PROFESSIONAL SERVICES CONTRACT

THIS WASTEWATER OPERATION AND MAINTENANCE AGREEMENT (the "Agreement") is made this _____ day of _____, between:

THE CITY OF WILLOWS, the "Municipality"; and

_____, (hereinafter the "Operator").

BACKGROUND

The Municipality desires to retain the Operator to operate and maintain the Municipality's wastewater treatment plant and all associated facilities as described in Schedule 2 of this Agreement ("Facilities") and the Operator desires to provide said operations and maintenance services to the Municipality.

AGREEMENT

In consideration of the mutual promises in this Agreement, the parties agree as follows:

1) TERM

1.1 This Agreement shall commence on _____ ("Commencement Date") and shall remain in full force and effect for five (5) years from the Commencement Date ("Initial Term") unless terminated earlier under clause 6 below. After the Initial Term, the Agreement shall be automatically renewed for successive five (5) year periods unless cancelled in writing by either party at least one hundred and twenty (120) days prior to the expiration of the then current term.

2) SERVICES

2.1 The services to be provided by the Operator as more fully set out in Schedule I (the "Services").

2.2 The Operator shall:

2.2.1 Perform the Services in accordance with the provisions of this Agreement, Applicable Law, and all permits, licenses, and specifications applicable to the operation and maintenance of the Facilities; exercising the degree of skill and care ordinarily exercised by members of Operator's profession in the geographic region of the Facilities;

2.2.2 Use qualified (and where required, certified) personnel to operate and maintain the Facilities and all its equipment and processes in accordance with relevant operation and, if available, maintenance manuals for the Facilities, Applicable Law, and the Discharge Permits;

2.2.3 Perform (or contract with a laboratory certified by the appropriate regulatory body to perform) all sampling, and laboratory analysis required by the Municipality's Discharge Permits. laboratory procedures and analysis shall conform to the then current edition of Standard Methods for the Examination of Water and Wastewater, or shall be in accordance with testing requirements of the Municipality's Discharge Permits;

2.2.4 Purchase and maintain an inventory of chemicals routinely used in the operation of the Facility. Chemical inventories will be stored at the Facility in compliance with all state and federal standards and in quantities sufficient to ensure continuous operation of the Facility;

2.2.5 Subject to the limitations in clauses 3 and 5, below, perform the routine maintenance tasks in Schedule 1 as part of the annual "Base Fee";

2.2.6 Maintain necessary records of operations, maintenance, repair and improvement activities at the Facilities and shall prepare and submit to the Municipality a monthly report, delivered to the Municipality the following month, including a narrative and summary of operations, maintenance, repair and replacement activities (including the draw-down against the Annual Repair and Maintenance Limit) and data required for monthly reporting to local, state and federal agencies;

2.2.7 Prepare a summary report of operations, if requested by the Municipality, at the conclusion of each agreement year and present to Municipality within thirty (30) days after the conclusion thereof;

2.2.8 Prepare and submit all operations and compliance reports as may be required by state and federal regulatory agencies;

2.2.9 Attend scheduled meetings with Municipality as required and promptly respond to all correspondence and/or inquiries from Municipality in a professional manner;

2.2.10 Collect stormwater discharge samples and arrange for laboratory testing and report the results from such testing in accordance with the current NPDES permit;

2.2.11 Ensure that general housekeeping and building and grounds appearance is maintained to acceptable standards;

2.2.12 Provide emergency response and respond to such emergency calls within one (1) hour from the time of receiving notification or as reasonable under the particular circumstances of the Emergency. Emergency services are to be provided 'twenty-four (24) hours per day; seven (7) days per week.

2.3 For the duration of this Agreement, the Municipality hereby grants the Operator, free of charge, a license to use the Facilities, including all equipment, structures, and ancillary items under Municipality's ownership and which have been assigned by Municipality to the Facilities.

2.4 At the City's request and at the option of Operator, Operator shall provide additional services for Municipality. Compensation for such services shall be negotiated on a case-by-case

basis.

3) REPAIRS AND MAINTENANCE

3.1 The Operator shall be responsible for all Annual Maintenance Expenditures up to the aggregate Annual Repair and Maintenance Limit. Any and all costs in excess of the Annual Repair and Maintenance Limit shall be the responsibility of the Municipality.

3.2 Except in the case of an Emergency Event, the Operator shall obtain the prior written approval of the Municipality for any single maintenance-related expense which shall cost more than two thousand dollars (\$2,000). When the Operator determines that an Emergency Event exists, it may begin immediately taking any necessary action, without the Municipality's prior approval. However, in the event of an Emergency Event, Operator shall notify Municipality as soon as possible and provide information on the nature of the Emergency Event and an estimate of the maximum anticipated expense to remedy the Emergency Event". Any costs incurred during the Emergency shall be included in the Annual Maintenance Expenditures, subject to the Municipality's subsequent review and approval.

3.3 Operator shall maintain up-to-date financial and accounting records as they apply to the Annual Maintenance Expenditures. The records must be kept in accordance with the Operator's standard accounting practices and made available to the Municipality within thirty (30) working days of Municipality's written request.

3.4 The Operator will track Annual Maintenance Expenditures incurred against the Annual Repair and Maintenance Limit. Any portion of the Annual Repair and Maintenance Limit that has not been spent at the end of the Agreement Year will either be credited, based on direction from the Municipality, against the following year's Base Fee or reimbursed to the Municipality within thirty (30) days of the end of the Agreement Year.

3.5 Operator will provide annually, based on a schedule and time frame provided by the Municipality, a recommended list of capital improvements for the Facility.

3.6 Extraordinary Costs. If at any time during the course of this Agreement, storms, earthquakes, tornados, unusual floods, or other uncommon natural disasters occur which adversely affect the Facilities, and which cause extraordinary expenditures to be incurred by Operator to ensure, to the best of its ability, the continued operation of the Facilities in compliance with the Discharge Permit, Operator shall submit a detailed invoice of any such Extraordinary Costs to Municipality. Municipality shall pay to Operator such invoiced amount within thirty (30) days of receipt and approval of such invoice.

4) MUNICIPALITY OBLIGATIONS

4.1 The Municipality shall:

a) Obtain and maintain all state, federal, and local permits and licenses required for ownership, operation and maintenance of the Facilities, including without limitation, the Municipality's

Discharge Permits;

b) Arrange for and pay: i) all costs related to delivery to and consumption of utilities to the Facility, including electricity, water, gas usage at the Facilities; ii) all property, value-related, franchise, sales, use, excise, gross receipts, transaction privilege or other taxes associated with the Services and the ownership, operation and maintenance of the Facilities, other than taxes imposed on Operator's net income or payroll; iii) expenses resulting from hydraulic or organic loads exceeding the Baseline Conditions; iv) all costs attributable to the transportation and disposal of Process Residue if any; and, v) all Capital Improvements;

c) Comply with Applicable Law relating to the management, ownership, operation, maintenance, repair and replacement of the Facilities (to the extent that the responsibility of complying with those laws is not specifically assumed by the Operator under this Agreement). The Operator shall not be responsible for Municipality's failure to comply with any provision of Applicable Law that is not otherwise specifically assumed by the Operator hereunder;

d) During visits to the Facilities, comply and shall require its agents, licensees or invitees to comply with all reasonable safety rules and regulations adopted by the Operator;

e) Maintain all sewer lines, pipes, force mains, and all other wastewater transportation lines ("Municipality Lines"), that are not part of the Facilities under Operator's control, in a manner that will prevent, to the extent practicable, any damage to the operation of the Facilities due to leakage of wastewater or infiltration or inflow of storm water from such Municipality Lines;

f) Perform all duties and discharge all responsibilities and obligations relating to the operation and maintenance of the Facilities not expressly assumed by the Operator pursuant to the terms of this Agreement.

5) FEES AND PAYMENT

5.1 For the period beginning on the Commencement Date, the Municipality shall pay the Operator an annual fee (the "Base Fee") as set out in Schedule 5. The amount of the Base Fee shall be increased on each Adjustment Date in accordance with the formula set forth in Schedule 5. In no event shall the Base Fee be reduced.

5.2 Any and all late payments due to either party from the other party shall accrue interest at the rate of one and one-half percent (1 ½ %) per month or the maximum rate permitted by Applicable Law, whichever is less, from the original due date and until payment is received.

5.3 In the event of a change in the Services or Applicable law or other factor beyond the reasonable control of the Operator which causes an increase in the Operator's cost of providing the Services, the Operator may provide notice to the Municipality and the parties shall negotiate in good faith to adjust the Base Fee to account for such change in Operator's costs. If the parties are unable to reach a negotiated agreement within thirty (30) days of the date of notice, then the contract may be terminated by the Operator with one hundred twenty (120) days prior written notice to Municipality. The Parties agree that this Agreement is based on the Facility being rated

at a maximum daily annual average flow 2.0 MGD and its ability to treat 2,400 lbs./day BOD and 3,400 lbs./day of TSS. Should the actual annual dry-weather flows or loadings treated change from either of these levels by more than ten percent (10%), the price differential for such treatment shall be agreed to by the Parties pursuant to this Section

5.4 Reduction of the overall scope of Services performed by the Operator under this Agreement may not, over the entire term of this Agreement, reduce the Base Fee by an amount greater than twenty five percent (25%) of the Base Fee as of the Commencement Date.

6) TERMINATION

6.1 Either party may terminate this Agreement by written notice if the other has failed to comply with a material term, provided that the non-defaulting party has first given the defaulting party written notice to cure their default within forty five (45) days ("Cure Period") and the defaulting party has not done so. If the default cannot be cured within the Cure Period days, the parties may agree to an extension if the defaulting party provides evidence within the Cure Period that it has commenced a cure and is pursuing it diligently. If the default has not been cured within the Cure Period or mutually agreed extension, either party may serve upon the other written Notice of Termination. The termination date shall be included in the Notice of Termination, but in no case shall the termination date be less than one hundred and twenty (120) days from the issuance of the Notice of Termination.

6.2 In the event of the termination of this Agreement under 6.1 above, the Municipality shall pay the Operator for the Services provided and invoiced by Operator up to the effective date of termination plus the unamortized balance of any Capital Improvements financed or paid for by the Operator as reflected on Operator's financial statements. Payment shall be made within thirty (30) days of the date of termination.

6.3 In the event that the facility is issued an enforcement order or fined for violation of the Municipality's Discharge Permit or other applicable law and such order and/or fines include provisions that require capital improvements be made to the Facilities as a result of said order and/or fines, Municipality shall have the right to terminate this Agreement upon issuance of one hundred and twenty (120) days written notice to Operator.

7) FINES, INDEMNIFICATION AND LIMITATION

7.1 In the event that water quality violations occur following the Commencement Date, subject to Sections 2.3 and 13.6, the Operator shall, in respect of violations that may be imposed by Applicable Law, be responsible for payment without cost to Municipality all fines, penalties, and/or damages. Prior to settlement or payment of any such fines, penalties or damages, the Operator reserves the right to contest government or private actions, suits or proceedings for violations through administrative procedures or otherwise.

7.2 If the Facilities loadings exceed its design parameters or if influent contains: i) abnormal substances which cannot be removed or treated by the existing Facilities; or ii) discharges which violate applicable sewage ordinances, the Operator will use its best efforts to maximize

performance of the Facilities but shall not be responsible for associated effluent characteristics or damages, fines or penalties which result.

7.3 To the maximum extent permitted by law, during the term of this Agreement, Operator shall defend, indemnify and hold Municipality harmless against any and all liability for damages, costs, losses, and expenses, including reasonable attorney's fees, resulting from any claim asserted by a third party against the Municipality for wrongful death, bodily injury and/or property damage, but only to the extent caused by the willful or negligent acts or omissions of the Indemnifying Party.

7.4 Notwithstanding any provision to the contrary contained in this Agreement, in no event shall either party be liable, either directly or indirectly, for any special, punitive, indirect and/or consequential damages, including damages attributable to loss of use, loss of income or loss of profit even if such party has been advised of the possibility of such damages.

7.5 Unless prohibited by law, the Contractor's liability shall be limited as set out in this clause 7.5. Except for indemnified claims, the Contractor's maximum liability under this Agreement shall not exceed an amount equal to the annual Base Fee for the year in which the claim arises. In respect of indemnified claims, the Contractor's maximum liability shall be \$3 million. This limitation of liability shall not apply to third party claims asserted directly against Operator or claims arising from Operator's Gross Negligence or willful misconduct.

8) INSURANCE

8.1 The Operator shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Operator, his agents, representatives, employees, or subcontractors. With respect to General Liability, Errors & Omissions, Contractors Pollution Liability, and/or Asbestos Pollution Liability, coverage shall be maintained for a minimum of five (5) years after Agreement completion.

8.2 Operator shall provide and maintain insurance provided by California admitted surety insurers with a current A.M. Best rating of no less than A:VII. Insurance coverages and levels shall be as follows:

8.2.1 Commercial General Liability (CGL) Insurance on an "occurrence" basis, including products and completed operations, contractual liability, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Agreement (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit; and

8.2.2 Workers Compensation Insurance as required by the State that has jurisdiction over Operator's employees engaged in the performance of Services hereunder, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease; and

8.2.3 Automobile Liability Insurance Services Office Form Number CA 0001 covering any auto (Code 1), hired (Code 8) and non-owned (Code 9) autos, with limit no less than **\$1,000,000** per accident for bodily injury and property damage; and

8.2.4 Contractor's pollution liability insurance with a minimum limit of four million dollars (\$4,000,000) per claim and aggregate.

8.3 If the Operator maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

8.4 Self-insured retentions must be declared to and approved by the Municipality. At the option of the Municipality, the Operator shall provide coverage to reduce or eliminate such self-insured retentions as respects the Municipality, its officers, officials, employees, and volunteers; or the Operator shall provide evidence satisfactory to the Municipality guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Municipality.

8.5 Other insurance provisions shall include the following:

8.5.1 The General Liability, Automobile Liability, Contractors Pollution Liability, and/or Asbestos Pollution policies are to contain, or be endorsed to contain, the following provisions:

8.5.1.1 The Municipality, its officers, officials, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Operator including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

8.5.1.2 For any claims related to this project, the Contractor's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the Municipality, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the Municipality, its officers, officials, employees, agents, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

8.5.1.3 Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Municipality.

8.5.2 The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Operator pursuant to the contract. This coverage may also be provided on the Contractors Pollution Liability policy.

8.5.3 If General Liability, Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions coverages are written on a claims-made form:

8.5.3.1 The retroactive date must be shown, and must be before the date of the Agreement.

8.5.3.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement of work.

8.5.3.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Agreement effective date, the Operator must purchase an extended period coverage for a minimum of five (5) years after completion of Agreement work.

8.5.3.4 A copy of the claims reporting requirements must be submitted to the Municipality for review.

8.6 The Operator shall name the Municipality, its officers, agents, and employees as an additional insured on the general liability policy and automobile liability policy with respect to the Services during the term of this Agreement, except for any claim against or loss suffered by the Municipality arising as a result of Municipality's negligence or fault and, in circumstances of joint fault or negligence, except to the extent of the loss attributable to the Municipality's proportionate degree of negligence or fault.

8.7 Operator agrees to provide the Municipality with thirty (30) days' notice prior to cancellation of any policy hereunder. The Operator will provide the Municipality with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Municipality before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Operator's obligation to provide them. The Municipality reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8.8 Operator hereby grants to Municipality a waiver of subrogation which any insurer may acquire against Entity, its officers, officials, employees, and volunteers, from Operator by virtue of the payment of any loss. Operator agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Municipality has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Municipality for all work performed by the Operator, its employees, agents, and subcontractors.

8.9 Operator shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Operator shall ensure that Municipality is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

8.10 Municipality reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8.11 The Municipality warrants that it maintains and will continue to maintain, during the term of this Agreement, appropriate property insurance in relation to the Facilities.

9) DISPUTES

9.1 In the event of any disputes, the parties shall first attempt to resolve the situation by good faith discussions which shall take place in a timely manner. If the dispute cannot be resolved within sixty (60) days, the parties shall mediate their dispute before a mediator acceptable to both parties, if the parties cannot agree on a mediator, they shall ask the Director of the Federal Mediation and Conciliation Service to nominate a mediator. The parties shall bear their own costs of the mediation, but the parties shall share equally the costs of the mediator and the mediation facilities.

10) MISCELLANEOUS

10.1 The relationship of the Operator to the Municipality is that of independent contractor for all purposes under this Agreement. This Agreement is not intended to create, and shall not be construed as creating, between Operator and Municipality, the relationship of principal and agent, joint ventures, co-partners or any other similar relationship, the existence of which is hereby expressly denied.

10.2 This Agreement contains the entire agreement between the Municipality and the Operator and supersedes all prior or contemporaneous communications, representations, understandings or agreements. This Agreement may be modified only by a written amendment signed by both parties.

10.3 The failure on the part of either party to enforce its rights as to any provision of this Agreement shall not be construed as a waiver of its rights to enforce such provisions in the future.

10.4 Neither party may actively solicit, for hire, the employees of the other party during the term of this agreement.

10.5 Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

10.6 A party's performance of any obligation under this Agreement shall be excused if, and to the extent that, the party is unable to perform because of any event of Force Majeure. In any such event, the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or because that excused performance hereunder.

10.7 The Agreement shall be governed by and construed in accordance with the laws of the State. The parties agree that the venue of any action arising from this Agreement shall be in the appropriate State court having competent jurisdiction located in the judicial district in which the

Municipality is located.

10.8 In the event that the Municipality receives notice of or undertakes the defense or prosecution of any legal or administrative action or proceeding in connection with the ownership, operation and/or maintenance of the Facilities and/or this Agreement, the Municipality shall give the Operator prompt notice of such proceedings and shall inform the Operator in advance of all hearings. In the event the Operator receives notice of any action, claim, suit, administrative or arbitration proceeding or investigation in connection with the ownership, operation and/or maintenance of the Facilities and/or this Agreement, the Operator shall give Municipality prompt notice of such proceedings.

10.9 All notices will be in writing and shall be deemed given when mailed by first class mail or delivered in person. Notices required to be given to the parties by each other will be addressed to:

Operator

Municipality

10.10 Defined terms in this Agreement are set out in Schedule 3 or within the main body of this Agreement, within quotation marks.

10.11 Should any part of this Agreement for any reason be declared invalid or void, such declaration will not affect the remaining parts of this Agreement, which will remain in full force and effect as if the Agreement had been executed with the invalid portion eliminated.

10.12 This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

10.13 Both parties warrant and represent to the other that they have full power and authority to enter into and perform this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement effective as of the date at the top of this Agreement.

Operator

Municipality

Schedule 1: The Services

The Services include:

- (a) treatment of wastewater influent delivered to the Facilities;
- (b) routine preventive and corrective maintenance of the Facilities;
- (c) Repair and replacement of the Facilities' equipment;
- (d) Laboratory testing and analysis; and
- (e) Preparation and prompt delivery of all applicable and required filings, including discharge reports, to Municipality and to regulatory agencies as prescribed by Applicable Law.

Unless otherwise agreed in writing, the Operator shall provide labor, tools, utilities and materials, including an on-site routine stock of chemicals necessary for the operation and maintenance of the Facilities.

Routine Preventive and Corrective Maintenance: Routine preventative and corrective maintenance, including but not limited to the following, are included as part of the Base Fee.

- (i) routine preventive and corrective maintenance in accordance with the operator's experience, acceptable industry practice and approved operating and maintenance procedures developed for equipment and processes of the Facilities;
- (ii) routine preventive maintenance in accordance with manufacturers' specifications and approved operating and maintenance procedures developed for equipment and processes of the Facilities;
- (iii) clean and lubricate equipment;
- (iv) make equipment inspections and needed adjustments;
- (v) perform building and grounds janitorial services for the Facilities and cleaning of all equipment and vehicles;
- (vi) perform plumbing maintenance;
- (vii) maintain vehicles and light duty service trucks necessary for daily operations;
- (viii) maintain all the Facilities' instrumentation, including instrumentation provided to the Operator by the Municipality under this Agreement;
- (ix) schedule and track all preventive and corrective maintenance; and, perform spare parts inventory control in accordance with standard industry practice.

Repair and replacement - Repair and replacement of facility equipment is to be performed and funded as outlined in section "3) Repairs and Maintenance" of the Contract.

Schedule 2: The Facilities

The Municipality owns and has a National Pollution Discharge Elimination System (NPDES) Permit No. CA 0078034 for a wastewater treatment plant ("Facility") located at 1600 South Tehama Street, Willows, California.

The Facility is a conventional biological tertiary treatment system which includes the following unit processes:

- i) Influent Screening
- ii) Extended aeration activated sludge
- iii) Secondary clarification
- iv) Tertiary filters
- v) Sodium hypochlorite disinfection Sodium bisulfite de-chlorination
- vi) One equalization pond
- vii) One emergency pond
- viii) Two sludge retention lagoons

Effluent from the facility is discharged into the Glenn-Colusa Irrigation District or Agriculture Drain C, a tributary to Logan Creek.

Schedule 3: Definitions

"Adjustment Date" means each anniversary of the Commencement Date.

"Agreement Year" means any consecutive twelve (12) month period during the term of the Agreement (including the renewal options) that begins on the Commencement Date and subsequently ends on each anniversary of that date.

"Annual Maintenance Expenditures" means the total of all expenses incurred annually by the Operator in connection with the performance of its maintenance responsibilities under this Agreement. The Annual Maintenance Expenditures shall: i) exclude Operator's direct labor expenses and related benefits for its personnel assigned exclusively to the operations and maintenance of the Facilities and whose cost is included in the Base Fee; ii) include, but not be limited to, all materials, supplies, parts, tools, outside subcontractors, specialized services, rental equipment and all of the Operator's overtime costs and related benefits, as well as the cost of Operator's personnel not exclusively assigned to the operation and maintenance of the Facilities at an agreed hourly billing rate.

"Annual Repair and Maintenance Limit" means the total of all Annual Maintenance Expenditures in an amount up to a maximum of the amount in Schedule 5 for the first Agreement Year. For each Agreement Year thereafter, the Annual Repair and Maintenance Limit shall be increased on each Adjustment Date by the Price Index Increase.

"Applicable Law" means laws, rules, regulations, codes, administrative and judicial orders, directives, guidelines, judgments, rulings, interpretations or similar requirements or actions of any federal, state, local government, agency or executive or administrative body of any of the above, in each case that relate to the (a) parties' respective responsibilities under this Agreement; (b) operation or maintenance of the Facilities; (c) health and welfare of individuals working at or visiting the Facilities; and (d) the collection, delivery, treatment and disposal of the Municipality's Process Residue and/or related wastes.

"Baseline Conditions" means the hydraulic influent flow of wastewater received and/or processed at the Facilities and the maximum wastewater influent loading limits contained in such influent wastewater, as outlined in Schedule 6. The Baseline Conditions shall be reset and adjusted on each and every Adjustment Date to reflect the actual influent hydraulic flows and loadings processed at the Facilities during the Agreement Year just ended.

"Capital Improvements" means any modifications, additions or upgrades to the Facilities made by or on behalf of the Municipality or with its prior approval.

"Capital Maintenance and Repair" shall mean any non -preventive maintenance, repair or replacement that costs two thousand dollars (\$2,000) or more, or which is caused by a Force Majeure event.

"Corrective Maintenance" shall mean any non -preventive maintenance, repair or replacement that

costs more than two thousand (\$2,000) dollars.

"Emergency Event" means an event which threatens the immediate shutdown of (or the substantial reduction in the operational capacity of, any of the Facilities, or the life, health or property of the Municipality and/or the Operator, their employees and/or agents or others.

"Force Majeure" means an event which is beyond the reasonable control of a party, including without limitation: (a) acts of God; (b) flood, fire, earthquake, hurricane or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances, other than those involving the affected parties employees; (i) shortage of adequate power or transportation facilities.

"Municipality's Discharge Permit(s)" and/or *"Discharge Permit(s)"* means all permits and licenses issued to Municipality and required for the discharge of wastewater from the Facilities. Copies of all Discharge Permits are attached as Schedule 4 of this Agreement.

"Price Index" means the Consumer Price Index for all Urban Consumers (CPI-U) for the San Francisco- Oakland- San Jose Local Area for all Items, 1982-84=100 as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics, or any replacement to that index from time to time.

"Price Index Increase" means the percentage increase between the Price Index in effect as of the month of each and every Adjustment Date over the Price Index in effect as of the month of the Commencement Date. The Price Index Increase shall be calculated as of each and every Adjustment Date for the purpose of adjusting the Base Compensation and the Annual Repair and Maintenance Limit.

Schedule 4: Municipality's Discharge Permits

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Schedule 5: Annual Base Fee and Compensation Formula

1) Repair and Maintenance Limits and Baselines for First Agreement Year:

Annual Repair and Maintenance Limit to be determined.

2) Annual Base Fee:

The Annual Base Fee in the first year of this agreement shall be:
_____ (\$_____).

The Base Fee shall be payable in twelve (12) equal monthly installments of
_____ (\$_____), due and payable upon receipt of invoice, as adjusted
under clause 5 of this Agreement.

3) Annual Adjustment:

The Annual Base Fee and the Repair and Maintenance Limit shall be reviewed annually for compensation increase based on the San Francisco-Oakland-San Jose CPI Index as published by the Bureau of Labor Statistics. The annual average increase reported will be utilized to increase the compensation of the year following the reported year. The CPI Index published for the period February to February of each subsequent year shall be utilized to establish the new compensation rate. Rate increase shall become effective in accordance with the CITY fiscal year period commencing on July 1st of each subsequent Agreement Year. The first adjustment shall take place on July 1, 2021. There shall be no decrease in the Annual Base Compensation.

Schedule 6: Baseline Conditions

2,400 lbs. per day- *BODs* (5 Day Biochemical Oxygen Demand)

3,400 lbs. per day- TSS (Total Suspended Solids)