



BIOSOLIDS LOADING, HAULING, AND LAND APPLICATION AGREEMENT

This Biosolids Loading, Hauling, and Land Application Agreement (“**Agreement**”) is effective as of the date of the Mayor’s signature below and is between the City of Everett, a Washington municipal corporation (the “**City**”), and Contractor identified in the Basic Provisions below (“**Contractor**”). This Agreement is for the purpose of the Contractor providing the services as set forth in this Agreement. This Agreement includes and incorporates the Basic Provisions, the attached General Provisions, and the documents listed as Agreement Documents in the Basic Provisions.

BASIC PROVISIONS	
Solicitation	2024-024 Biosolids Loading, Hauling & Land Application
Contractor	Elysian Fields LLC
	PO Box 1716 Snohomish, WA 98291
	elysianfieldsfarms@gmail.com
City Project Manager	Joseph Ferguson
	City of Everett – Public Works 4027 4th Street SE Everett, WA 98201
	jferguson@everettwa.gov
Contractor Insurance Contact Information	Colleen Martin
	425-280-4313
	info@insurewa.com

BASIC PROVISIONS

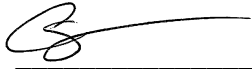
<p>Agreement Documents</p>	<p>The following documents (“Agreement Documents”) are incorporated by reference and are hereby made a part of this Agreement: this Services Agreement; the solicitation and addenda thereto, including without limitation any instructions, specifications, and any other document included in the solicitation, and the following document(s), if any:</p> <p>N/A</p> <p>Contractor’s response to the solicitation is part of the Agreement Documents, but only to the extent the response is responsive to the solicitation and is in accordance with Section 1 of the General Provisions.</p> <p>During the Contract term, the City may issue one or more purchase orders, each of which will operate as notice to proceed, but only for the Work specified in the purchase order. A purchase order is only a notice to proceed, and the purchase order’s preprinted terms and conditions are not part of this Agreement.</p>
<p>Additional Provision(s)</p>	<p>N/A</p>

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement, which includes and incorporates the above Basic Provisions, the attached General Provisions, and the Agreement Documents listed in the Basic Provisions.

**CITY OF EVERETT
WASHINGTON**

ELYSIAN FIELDS LLC



Cassie Franklin, Mayor

Signature: *Kurt Bartelheimer*

Name of Signer: Kurt Bartelheimer

Signer's Email Address: elysianfieldsfarms@gmail.com

Title of Signer: Manager

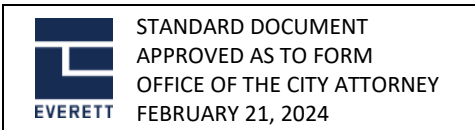
06/05/2024

Date

ATTEST



Office of the City Clerk



**ATTACHMENT
SERVICES AGREEMENT
(GENERAL PROVISIONS)**

1. **Engagement of Contractor.** The City hereby agrees to engage Contractor, and Contractor hereby agrees, to perform the work in a competent manner and provide the services described in the Agreement Documents. The work so described is hereafter referred to as “Work”.
 - A. Without a written directive of an authorized representative of the City, Contractor shall not perform any services that are in addition to, or beyond the scope of, the Work.
 - B. If Contractor’s proposal or other document generated by Contractor is incorporated or attached as an Agreement Document or any part of Agreement Document or in any amendment or task or work order pursuant to this Agreement, then such proposal or document is part of this Agreement solely to the extent that it describes the Work, the Work schedule, and the amounts or rates to be paid for such Work. Contractor expressly agrees that no terms or conditions from such proposal or document are incorporated or included into this Agreement, unless the to-be-included term or condition is specifically referenced in the “Additional Provision(s)” portion of the Basic Provisions.
 - C. In the event of difference or conflict between parts of this Agreement, Contractor shall be bound by whichever is more stringent on Contractor, except that the following provisions in the Basic Provisions shall always govern: the Completion Date, the Maximum Compensation Amount, the Extension Provision, and the Additional Provisions.
2. **Time of Beginning and Completion of Performance.** This Work shall commence and shall be completed as set forth in the Agreement Documents.
3. **Compensation.**
 - A. The City shall pay Contractor only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work.
 - B. Contractor shall be paid such amounts and in such manner as described in the Agreement Documents.
4. **Method of Payment.** To obtain payment, the Contractor shall follow procedures as required by the City Project Manager.
5. **Termination of Contract.** City reserves the right to terminate this Agreement at any time by sending written notice of termination to Contractor. Unless terminated for Contractor’s material breach, Contractor shall be paid for Work completed prior to termination.
6. **Subletting/Assignment of Contracts.** Contractor shall not sublet or assign any of the Work without the express, prior written consent of the City.
7. **Indemnification.** Except as otherwise provided in this Section, Contractor hereby agrees to defend and indemnify and save harmless the City from any and all Claims arising out of, in connection with, or incident to any negligent or intentional acts, errors, omissions, or conduct by Contractor (or its employees, agents, representatives or subcontractors/subconsultants) relating to this Agreement, whether such Claims sound in contract, tort, or any other legal theory. Contractor is obligated to defend and indemnify and save harmless the City pursuant to this Section whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. Contractor’s duty to defend and indemnify and save harmless pursuant to this Section is not in any way limited to, or by the extent of, insurance obtained by, obtainable

by, or required of Contractor. Contractor's obligations under this Section shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) Contractor, its employees, subcontractors/subconsultants or agents and (b) the City, then Contractor's liability under this Section shall be only to the extent of Contractor's negligence. Solely and expressly for the purpose of its duties to indemnify and defend and save harmless the City, Contractor specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. Contractor recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages or infringement or misappropriation of any patent, copyright, trade secret, or other proprietary right. If, and to the extent, Contractor employs or engages subconsultants or subcontractors, then Contractor shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify and save harmless the City to the extent and on the same terms and conditions as Contractor pursuant to this Section. The provisions of this Section shall survive the expiration or termination of this Agreement.

8. **Insurance.**

- A. Contractor shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Contractor's own cost and expense, the policies of insurance as set forth in this Section with companies authorized to do business in the State of Washington, which are rated at least "A-" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.
1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, Contractor shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless Contractor covers such employees.
 2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.
 3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.
- B. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of Contractor to furnish the required insurance during the term of this Agreement.
- C. The Description of Operations on the Certificate of Insurance must substantially read as follows: "The above commercial general and auto liability policies are primary as to the City

- of Everett; have the City of Everett, its officers, employees, agents, and volunteers as additional insureds; and contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City of Everett."
- D. Prior to Contractor performing any Work, Contractor shall provide the City or the City's designee with a Certificate of Insurance and endorsements acceptable to the City Attorney evidencing the required insurance.
- E. Contractor certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Contractor shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Contractor shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.
9. **Risk of Loss.** Contractor shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at Contractor's own risk, and Contractor shall be solely responsible for any loss of or damage to Contractor's materials, tools, or other articles used or held for use in connection with the work.
10. **Independent Contractor.** This Agreement neither constitutes nor creates an employer-employee relationship. Contractor must provide services under this Agreement as an independent contractor. Contractor must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section. Contractor agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations
11. **City of Everett Business License.** Contractor agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.
12. **Compliance with Federal, State and Local Laws.** Contractor shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.
13. **Compliance with the Washington State Public Records Act.** Contractor acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Contractor. Contractor shall cooperate with the City so that the City may comply with all of its obligations under the Act.
14. **Equal Employment Opportunity.** Contractor shall not discriminate against any employee, applicant for employment, or other person on the basis of race, color, religion, sex, age, disability, marital state, or national origin or other circumstance prohibited by applicable federal, state, or local law or ordinance. Contractor shall comply with and shall not violate any applicable provisions of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, and all applicable federal, state, or local law or ordinance regarding non-discrimination.
15. **Waiver.** Any waiver by Contractor or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.
16. **Complete Agreement.** This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.

17. **Modification of Agreement.** This Agreement may only be modified by a writing explicitly identified as a modification or amendment of this Agreement that is signed by authorized representatives of the City and Contractor.
18. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.
19. **Notices.**
 - A. Notices to the shall be sent to the City Project Manager address in the Basic Provisions.
 - B. Notices to Contractor shall be sent to its address in the Basic Provisions.
20. **Venue.** Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.
21. **Governing Law.** The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.
22. **Signature/Counterparts.** This Agreement and any amendment thereto may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. AdobeSign signatures are fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as an original signature.

END OF GENERAL PROVISIONS












2024 Biosolids Application Contract_5.16.24_SD

Final Audit Report

2024-06-05

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 Agreement completed.

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