

**LICENSE TO USE CITY PROPERTY FOR TEMPORARY BIOSOLIDS STORAGE**  
**("LICENSE AGREEMENT")**

**Grantor: City of Everett**

**Grantee: Mukilteo Water and Wastewater District**

**Property: See attached Exhibit A**

**WHEREAS, Mukilteo Water and Wastewater District**, hereinafter referenced to as "MUKILTEO," and whose address is 7824 Mukilteo Speedway, WA 98275, desires to utilize **City of Everett** (the "City") owned property for the purposes hereinafter set forth; and

**WHEREAS**, the City is willing to grant MUKILTEO authority to use the City's property in exchange for the fees described below.

**NOW, THEREFORE**, in consideration of the premises, the promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the City licenses MUKILTEO to use certain City property, and MUKILTEO agrees to pay the City, upon 30 days of receipt of invoice, upon the following terms and conditions:

- 1. LICENSED PROPERTY/USE NOTICE/FEES.** The property subject to this License Agreement is described on Exhibit A. The property described on Exhibit A is referred to in this License Agreement as the "Biosolids Pad."

MUKILTEO may use the Biosolids Pad where designated by the City for biosolids storage from time to time. Prior to each such use, MUKILTEO must provide the City 24 hours prior notice, as described in Exhibit B. By such notice, Mukilteo agrees to pay a use fee of \$750, which will allow biosolids storage for up to 30 calendar days, with the 30-day count beginning on the date that MUKILTEO gives the notice. Unless otherwise determined by the City at the City's sole discretion, MUKILTEO must remove all MUKILTEO biosolids from the Biosolids Pad by the end of such 30 days. There will be no proration or other refund if the MUKILTEO biosolids are on the Biosolids Pad for less than 30 days.

- 2. TERM.** This License Agreement shall take effect upon signing by both parties and shall expire June 30, 2025, unless terminated earlier upon 30-days' notice under Section 7, below.

3. **AUTHORIZED USE.** MUKILTEO may only use the Biosolids Pad for temporary storage of MUKILTEO's biosolids. All use of the Biosolids Pad must be in accordance with Exhibit B.
4. **BIOSOLIDS STORAGE.** At its sole cost, MUKILTEO shall transport and manage all biosolids in accordance with all applicable laws and Exhibit B. MUKILTEO has sole responsibility for MUKILTEO's biosolids, including without limitation all responsibility for biosolids transportation, storage, and reuse.
5. **INDEMNIFICATION.** To the maximum extent permitted by law and except to the extent caused by the sole negligence of the City, MUKILTEO shall defend, indemnify, and hold the City harmless from any and all Claims, including without limitation Claims for injury to people or damage to property, arising out of or related to (A) MUKILTEO's use of the Biosolids Pad, (B) any biosolids or any other material delivered to the Biosolids Pad by MUKILTEO, (C) any failure by MUKILTEO to transport, store, treat or dispose of biosolids or any other material in accordance with Exhibit Band all applicable laws or (D) any release by MUKILTEO of biosolids or another material. This defense and indemnification obligation shall survive any termination, revocation, or expiration of this Agreement.

For the purposes of this Section 5:

- A. "City" means the City, its officers, employees and agents.
- B. "MUKILTEO" means, its officers, employees, agents, contractors, and subcontractors.
- C. "Claims" means any loss, injury, demand, settlement, or lawsuit (including without limitation those based on environmental laws and regulations) and further includes any and all reasonable litigation costs such as attorney's fees, expert fees and costs, and court costs.
- D. "Injury to people" includes, but is not limited to, bodily injury and death.
- E. "Damage to property" includes, but is not limited to, damage or injury to any City property, including the Biosolids Pad, any City facilities, and any property owned by third parties.
- F. "Release" shall have the meaning that it has under RCW 70.105D.020{25}.

Solely and expressly for the purpose of its duties to indemnify and defend the City, MUKILTEO specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. MUKILTEO 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.

6. **HAZARDOUS MATERIALS.** MUKILTEO shall not place any materials on the Biosolids Pad or cause any materials to be transported onto any other property owned by the City that are classified as hazardous or dangerous under the Washington Model Toxic Control Act. Breach of this provision shall be considered "damage to property" for the purposes of Section 5, above.

- 7. TERMINATION.** Either party may terminate this License Agreement upon thirty (30) days prior written notice to other party.
- 8. NOTICE.** For the purposes of this License Agreement, the Agreement Administrators are: Operations Superintendent Jeff Marrs or designee for the City; and General Manager Dave Barnes or designee for MUKILTEO. Notices sent pursuant to this License Agreement shall be sent to the Agreement Administrators at the following addresses:

**CITY OF EVERETT**

Attn: Operations Superintendent  
Everett Public Works  
3200 Cedar Street  
Everett, Washington 98201

**MUKILTEO**

Attn: General Manager 7824  
Mukilteo Speedway  
Mukilteo, Washington 98275

- 9. NO ASSIGNMENT.** This License Agreement is personal to MUKILTEO and may not be transferred, assigned, conveyed, pledged, encumbered, or hypothecated.
- 10. COMPLIANCE WITH LAW.** MUKILTEO shall comply with all applicable local, State, and Federal regulations and laws.
- 11. INSURANCE.** MUKILTEO shall, throughout the term of this License Agreement, at its own expense, keep and maintain in full force and effect the following policy, which shall be endorsed as needed to provide that the insurance afforded by the policy is primary and that all insurance or self-insured retention carried or maintained by the City is strictly excess and secondary and shall not contribute with MUKILTEO's liability insurance:

A policy of commercial general liability insurance insuring against claims of bodily injury and death or property damage or loss with a combined single limit at the Effective Date of this License Agreement of not less than Two Million Dollars (\$2,000,000.00) per occurrence. MUKILTEO shall include the City as an additional insured.

The insurance policy required under this Section shall be with companies having a rating according to Best's Insurance Key Rating Guide for Property - Casualties of no less than A-Class VIII. The policy shall provide that it is not subject to cancellation, lapse, or

reduction in coverage except after thirty (30) days' written notice to the City. MUKILTEO shall deliver to the City, prior to the commencement of its use of the Biosolids Pad and from time to time thereafter, at the City's request, certificates evidencing the existence and amounts of such policy and copies of such insurance policy.

**12. NON-INTERFERENCE WITH CITY USE.** MUKILTEO's use of the Biosolids Pad shall not interfere in any way with any City, or authorized third party, use of the property, including utilities and travel.

**13. VACANT.**

**14. REPAIR OF PROPERTY.** MUKILTEO shall use care to avoid damaging or destroying property by reason of its operations pursuant to this License Agreement. Any damage caused by MUKILTEO to City or other property shall be promptly repaired or replaced by MUKILTEO to the satisfaction of the City, or in lieu of such repair or replacement, MUKILTEO shall pay, to the City or owner of other property, money in an amount sufficient to compensate for the loss sustained by reason of damage to or destruction of the City's or another party's property or improvements.

**15. RISK OF LOSS TO MUKILTEO'S PROPERTY.** MUKILTEO bears all risk of any and all damage and loss to its property being stored on the site. All biosolids delivered to the Biosolids Pad under this License Agreement are the property of MUKILTEO.

**16. VACANT.**

**17. NO WARRANTY.** The City does not warrant its title and ownership of the Biosolids Pad.

**18. NON-EXCLUSIVE.** This License Agreement is not exclusive. The City is not prohibited from granting permission to others to occupy or use portions of the Biosolids Pad, where such uses are not inconsistent with this License Agreement.

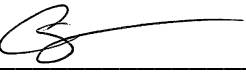
**19. RESERVATION OF RIGHTS.** The City reserves all rights not expressly restricted by this License Agreement.

**20. NO THIRD-PARTY RIGHTS.** This License Agreement does not create any rights in any third party.

**21. APPLICABLE LAW AND VENUE.** The laws of the State of Washington shall apply to this License Agreement. Venue for any lawsuit arising out of or related to this License Agreement shall be in Snohomish County Superior Court, Washington.


**Grantor:**

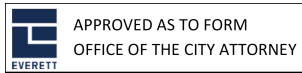
**CITY OF EVERETT**

By  \_\_\_\_\_  
Cassie Franklin, Mayor

Dated 08/19/2024

**ATTEST:**

By  \_\_\_\_\_  
Office of the City Clerk



**LICENSE AGREEMENT, TERMS AND CONDITIONS ACCEPTED BY:**

**Grantee:**

**MUKILTEO WATER AND WASTEWATER DISTRICT**

By *Dave Barnes*  
Dave Barnes, General Manager

Dated 08/16/2024

**APPROVED AS TO FORM:**

*Curtis Chambers*  
Curtis Chambers  
District Counsel

## EXHIBIT A

### LICENSE AGREEMENT AREA (Biosolids Pad)

Section 16 Township 29 Range OS Quarter NE - NE $\frac{1}{4}$  TGW NW $\frac{1}{4}$  SE $\frac{1}{4}$  & SW $\frac{1}{4}$  SE $\frac{1}{4}$  & TGW THAT PTN  
GOVT LOTS 1 & 4 IN NW $\frac{1}{4}$  LYE OF SR 1 & TGW TH PTN GOVT LOTS 8 & 11 IN SW $\frac{1}{4}$  LYE OF SR 1 &  
TGW GOVT LOTS 6 & 12 IN SE  $\frac{1}{4}$

## EXHIBIT B

### BIOSOLIDS TEMPORARY STAGING PLAN

- A. MUKILTEO must notify the City of its intent to use the Biosolids Pad at least 24 hours in advance of hauling material to the Biosolids Pad. Once that notification is sent, payment to the City as set forth in the License Agreement is required, regardless of whether MUKILTEO uses the Biosolids Pad or not. Notification will be sent via email to the Operations Superintendent, Plant Manager, Senior Wastewater Operator, and Biosolids Manager, as well as by phone to the Senior Wastewater Operator or representative:

Operations Superintendent  
Jeff Marrs  
jmarrs@everettwa.gov

Plant Manager  
John Smit  
jsmit@everettwa.gov

Senior Wastewater Operator  
Derek Kerlee  
dkerlee@everettwa.gov  
**(425) 257-6790**

These may be updated in writing by the City from time to time.

- B. Upon receiving notification, the City will designate and prepare an approximately 30 by 40-foot area on its Biosolids Pad for use by MUKILTEO. This area is large enough to temporarily stage five truckloads. Without the written consent of the City's Operations Superintendent, MUKILTEO may not use any other part of the Biosolids Pad.
- C. MUKILTEO must provide all appropriate equipment on-site to load biosolids onto their trucks for removal.
- D. The source of the biosolids is MUKILTEO's wastewater treatment plant at 7824 Mukilteo Speedway, WA 98275. MUKILTEO will cause all biosolids subject to this License Agreement to meet all Federal and State regulations for a Class B biosolids as defined in 40 CFR part 503 and WAC 173-308. MUKILTEO will cause all such biosolids to be at least 12% total solids. MUKILTEO may not under this License Agreement unload, temporarily stage, reload, or haul biosolids that do not comply with this Section of Exhibit B.
- E. MUKILTEO will not allow any biosolids to remain on the Biosolids Pad for more than 30 days from notification, unless otherwise approved by the City at the City's sole discretion. The City may, as a condition for such approval, require additional fees.



- F. MUKILTEO will utilize a dump truck and trailer combination to deliver the biosolids to the Biosolids Pad for temporary storage. MUKILTEO will then load truck and trailer units to transport the biosolids to MUKILTEO's existing end-use sites for beneficial reuse.
- G. Before leaving the Biosolids Pad, MUKILTEO will clean all trucks and trailers of all biosolids that may adhere to such vehicles during loading and unloading operations at the provided location on the Biosolids Pad. It is MUKILTEO's sole responsibility to promptly clean up any biosolids that are deposited on any roadways entering or leaving the Biosolids Pad as a result of MUKILTEO's activities.
- H. MUKILTEO is solely responsible for contacting the Snohomish County Public Works Department, or other applicable agency, regarding any haul routes to verify constraints or restrictions that might apply and complying with all applicable regulations.
- I. MUKILTEO will provide all equipment and personnel necessary to perform this task in a safe, reliable, and legally compliant manner.
- J. Prior to delivering any biosolids to the Biosolids Pad, MUKILTEO must obtain written approval of this License Agreement from the Department of Ecology Biosolids Coordinator for the Northwest Region. MUKILTEO will deliver a copy of such written approval to the City's Operations Superintendent prior to delivering any biosolids to the Biosolids Pad.
- K. In the event nuisance odors are generated, which determination will be made at the City's sole discretion, MUKILTEO shall cap the stockpiled biosolids with a 2 to 3-inch layer of material (i.e., sawdust or sand) capable of minimizing nuisance odors. The cap material will then be deemed part of the biosolids that must be hauled off-site by MUKILTEO. If the City determines in its sole discretion that the cap is insufficient to minimize odors, MUKILTEO shall haul off-site the biosolids causing the odors within 10 days after receiving notice from the City.
- L. Within 60 days of the initial notification of intended use of the Biosolids Pad, the City's Biosolids Program Manager or designee will confirm by a visual inspection that MUKILTEO has substantially removed all materials (including biosolids) MUKILTEO deposited on City Property under this License Agreement and that cleanup is satisfactory, i.e., the pad surface has been restored to its original condition. The City (Operations Superintendent or designee) will notify MUKILTEO in writing of the results of this inspection. If further action is necessary, the City will notify MUKILTEO of the time frame for further removal and clean up. If MUKILTEO fails to take further action within the timeframe specified or provide adequate cause as to why such further action cannot be accomplished within the timeframe specified, the City will take the necessary action to restore the site to its original condition through any means the City deems necessary. All costs associated with these activities will be paid by MUKILTEO.

M. MUKILTEO is responsible for any damage to any City equipment, appurtenance, or property caused by its activities at the site and shall schedule and complete repairs as soon as possible, at its expense. MUKILTEO will submit a repair schedule to the City's Operation Superintendent within 72 hours from the time damage occurred or is initially noted by MUKILTEO or City personnel. Any repair work must be pursuant to plans acceptable to the City and must be accomplished with parts, materials, and labor approved by City personnel. Upon completion of any necessary repairs, MUKILTEO will submit a written statement verifying that the repair work has been completed according to the approved repair schedule. If the repair work is not acceptable, the City's Operations Superintendent may have the repair work performed by City personnel or another private entity. All costs for this repair work will be paid by MUKILETO.










# Mukilteo Water and Wastewater District- Biosolids Storage Agreement-JF-SD














Final Audit Report

2024-08-20

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