

# CITY OF NAPLES, FLORIDA

## AGREEMENT (PROFESSIONAL SERVICES)

**Bid/Proposal No. 059-12**

**Contract No.** 12-00061

**Project Name** **Disposal of Bio-Solids to a Composting Facility**

THIS AGREEMENT (the "Agreement") is made and entered into this **October 17, 2012**, by and between the City of Naples, a Florida municipal corporation, (the "CITY") and **Prolime Corporation**, a Michigan corporation, **58610 Van Dyke, Washington, MI 48094** (the "CONTRACTOR").

### WITNESSETH:

WHEREAS, the CITY desires to obtain the services of the CONTRACTOR concerning certain services specified in this Agreement (referred to as the "Project"); and

WHEREAS, the CONTRACTOR has submitted a proposal for provision of those services; and

WHEREAS, the CONTRACTOR represents that it has expertise in the type of professional services that will be required for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

### ARTICLE ONE CONTRACTOR'S RESPONSIBILITY

1.1. The Services to be performed by CONTRACTOR are generally described as **removal and disposal of Bio-Solids**, and may be more fully described in the Scope of Services, attached as **EXHIBIT A** and made a part of this Agreement.

1.2. The CONTRACTOR agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, the City of Naples, and in Collier County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services to be provided and performed by the CONTRACTOR pursuant to this Agreement.

1.3. The CONTRACTOR agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ or retain only qualified personnel to provide such services.

1.4. CONTRACTOR agrees to employ and designate, in writing, within 5 calendar days after receiving its Notice to Proceed, or other directive from the CITY, a qualified licensed professional to serve as the

CONTRACTOR's project manager (the "Project Manager"). The Project Manager shall be authorized and responsible to act on behalf of the CONTRACTOR with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement.

1.5. The CONTRACTOR has represented to the CITY that it has expertise in the type of professional services that will be required for the Project. The CONTRACTOR agrees that all services to be provided by CONTRACTOR pursuant to this Agreement shall be subject to the CITY's review and approval and shall be in accordance with the generally accepted standards of professional practice in the State of Florida, as may be applied to the type of services to be rendered, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by CONTRACTOR. In the event of any conflicts in these requirements, the CONTRACTOR shall notify the CITY of such conflict and utilize its best professional judgment to advise CITY regarding resolution of the conflict.

1.6. The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without CITY's prior written consent, or unless incident to the proper performance of the CONTRACTOR's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONTRACTOR hereunder, and CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph. However, the CONTRACTOR shall comply with the Florida Public Records laws.

1.7 The CONTRACTOR agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the CITY who in any way deals with, coordinates on, or assists with, the professional services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. If the CONTRACTOR violates the provisions of this paragraph, the CONTRACTOR shall be required to pay damages to the CITY in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of the CITY from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the CITY, whichever is greater.

1.8 The CONTRACTOR agrees not to provide services for compensation to any other party other than the CITY on the same subject matter, same project, or scope of services as set forth in this Agreement without approval from the City Council of the CITY.

1.9. Except as otherwise provided in this Agreement, the CONTRACTOR agrees not to disclose or use any information not available to members of the general public and gained by reason of the CONTRACTOR's contractual relationship with the CITY for the special gain or benefit of the CONTRACTOR or for the special gain or benefit of any other person or entity.

**ARTICLE TWO  
CITY'S RESPONSIBILITIES**

2.1. The CITY shall designate in writing a project coordinator to act as the CITY's representative with respect to the services to be rendered under this Agreement (the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define the CITY's policies and decisions with respect to the CONTRACTOR's services for the Project. However, the Project

Coordinator is not authorized to issue any verbal or written orders or instructions to the CONTRACTOR that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

- (a) The scope of services to be provided and performed by the CONTRACTOR;
- (b) The time the CONTRACTOR is obligated to commence and complete all such services; or
- (c) The amount of compensation the CITY is obligated or committed to pay the CONTRACTOR.

Any such modifications or changes ((a) (b) or (c)) shall only be made by or upon the authorization of the CITY's city manager as authorized by city council in the enabling legislation or in the CITY's procurement policies.

2.2. The Project Coordinator shall:

- (a) Review and make appropriate recommendations on all requests submitted by the CONTRACTOR for payment for services and work provided and performed in accordance with this Agreement;
- (b) Arrange for access to and make all provisions for the CONTRACTOR to enter the Project site to perform the services to be provided by the CONTRACTOR under this Agreement; and
- (c) Provide notice to the CONTRACTOR of any deficiencies or defects discovered by the CITY with respect to the services to be rendered by the CONTRACTOR hereunder.

2.3. The CONTRACTOR acknowledges that access to the Project Site, to be arranged by the CITY for the CONTRACTOR, may be provided during times that are not the normal business hours of the CONTRACTOR.

### **ARTICLE THREE TIME**

3.1. Services to be rendered by the CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project and shall be performed and completed by **October 16, 2015 with the option of two (2) additional one (1) year renewals**. Time is of the essence with respect to the performance of this Agreement.

3.2. Should the CONTRACTOR be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of the CONTRACTOR, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the CITY, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then the CONTRACTOR shall notify the CITY in writing within 5 working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

3.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the CONTRACTOR's services from any cause whatsoever, including those for which the CITY may be responsible in whole or in part, shall relieve the CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the CITY. The CONTRACTOR's sole remedy against the CITY will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

3.4. Should the CONTRACTOR fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the CITY hereunder, the CITY at its sole discretion and option may withhold any and all payments due and owing to the CONTRACTOR until such time as the CONTRACTOR resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the CITY's satisfaction that the CONTRACTOR's performance is or will shortly be back on schedule.

#### **ARTICLE FOUR COMPENSATION**

4.1. The total compensation to be paid the CONTRACTOR by the CITY for all Services shall be paid in the manner set forth in the "Basis of Compensation", which is attached as **EXHIBIT B** and made a part of this Agreement.

#### **ARTICLE FIVE MAINTENANCE OF RECORDS**

5.1. The CONTRACTOR will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by the CONTRACTOR for a minimum of five 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. The CITY, or any duly authorized agents or representatives of the CITY, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the 5 year period noted above; provided, however, such activity shall be conducted only during normal business hours. If the CONTRACTOR desires to destroy records prior to the minimum period, it shall first obtain permission from the CITY in accordance with the Florida Public Records laws.

#### **ARTICLE SIX INDEMNIFICATION**

6.1. The CONTRACTOR agrees to indemnify and hold harmless the City from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons employer or utilized by the CONTRACTOR in the performance of the Contract.

#### **ARTICLE SEVEN INSURANCE**

7.1. CONTRACTOR shall obtain and carry, at all times during its performance under this Agreement, insurance of the types and in the amounts set forth in the document titled General Insurance Requirements, which is attached as **EXHIBIT C** and made a part of this Agreement.

#### **ARTICLE EIGHT SERVICES BY CONTRACTOR'S OWN STAFF**

8.1. The services to be performed hereunder shall be performed by the CONTRACTOR's own staff, unless otherwise authorized in writing by the CITY. The employment of, contract with, or use of the services of any other person or firm by the CONTRACTOR, as independent contractor or otherwise, shall be subject to the prior written approval of the CITY. No provision of this Agreement shall, however, be construed as constituting

an agreement between the CITY and any such other person or firm. Nor shall anything contained in this Agreement be deemed to give any such party or any third party any claim or right of action against the CITY beyond such as may otherwise exist without regard to this Agreement.

#### **ARTICLE NINE WAIVER OF CLAIMS**

9.1. The CONTRACTOR's acceptance of final payment shall constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against the CITY arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by the CONTRACTOR as unsettled at the time of the final payment. Neither the acceptance of the CONTRACTOR's services nor payment by the CITY shall be deemed to be a waiver of any of the CITY's rights against the CONTRACTOR.

#### **ARTICLE TEN TERMINATION OR SUSPENSION**

10.1. The CONTRACTOR shall be considered in material default of this Agreement and such default will be considered cause for the CITY to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by the CITY, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by the CONTRACTOR or by any of the CONTRACTOR's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The CITY may so terminate this Agreement, in whole or in part, by giving the CONTRACTOR at least **30 calendar days'** written notice.

10.2. If, after notice of termination of this Agreement as provided for in paragraph 10.1 above, it is determined for any reason that the CONTRACTOR was not in default, or that its default was excusable, or that the CITY otherwise was not entitled to the remedy against the CONTRACTOR provided for in paragraph 10.1, then the notice of termination given pursuant to paragraph 10.1 shall be deemed to be the notice of termination provided for in paragraph 10.3 below and the CONTRACTOR's remedies against the CITY shall be the same as and limited to those afforded the CONTRACTOR under paragraph 10.3 below.

10.3. The CITY shall have the right to terminate this Agreement, in whole or in part, without cause upon **30 calendar days'** written notice to the CONTRACTOR. In the event of such termination for convenience, the CONTRACTOR's recovery against the CITY shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by the CONTRACTOR that are directly attributable to the termination, but the CONTRACTOR shall not be entitled to any other or further recovery against the CITY, including, but not limited to, anticipated fees or profits on work not required to be performed.

#### **ARTICLE ELEVEN CONFLICT OF INTEREST**

11.1. The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no persons having any such interest shall be employed to perform those services.

**ARTICLE TWELVE  
MODIFICATION**

12.1. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**ARTICLE THIRTEEN  
NOTICES AND ADDRESS OF RECORD**

13.1. All notices required or made pursuant to this Agreement to be given by the CONTRACTOR to the CITY shall be in writing and shall be delivered by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CITY's address of record:

City of Naples  
735 Eighth Street South  
Naples, Florida 34102-3796  
Attention: **A. William Moss**, City Manager

13.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CONTRACTOR shall be made in writing and shall be delivered by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CONTRACTOR's address of record:

Prolime Corporation  
58610 Van Dyke  
Washington, Michigan 48094  
Attention: **Robert V. Rogers**, CEO

13.3. Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

**ARTICLE FOURTEEN  
MISCELLANEOUS**

14.1. The CONTRACTOR, in representing the CITY, shall promote the best interest of the CITY and assume towards the CITY a duty of the highest trust, confidence, and fair dealing.

14.2. No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

14.3. This Agreement is not assignable, in whole or in part, by the CONTRACTOR without the prior written consent of the CITY.

14.4. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

14.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles,

Exhibits, Parts and Attachments.

14.6. This Agreement constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.

14. 7. The CONTRACTOR shall comply fully with all provisions of state and federal law, including without limitation all provisions of the Immigration Reform and Control Act of 1986 (“IRCA”) as amended, as well as all related immigration laws, rules, and regulations pertaining to proper employee work authorization in the United States. The CONTRACTOR shall execute the Certification of Compliance with Immigration Laws, attached hereto as **EXHIBIT D**.

**ARTICLE FIFTEEN  
APPLICABLE LAW**

15.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the day and year first written above.

ATTEST:

CITY:

CITY OF NAPLES, FLORIDA,  
A Municipal Corporation

By: Patricia L. Rambosk  
Patricia L. Rambosk, City Clerk

By: A. William Moss  
A. William Moss, City Manager

Approved as to form  
and legal sufficiency:

By: Robert D. Pritt  
Robert D. Pritt, City Attorney

CONTRACTOR:

PROLIME CORPORATION  
A Michigan Corporation

Carol A. Hurley  
Witness

By: [Signature]  
Its CEO

(CORPORATE SEAL)

General Contract (not Architects/Engineers)

## EXHIBIT A

### GENERAL CONDITIONS

#### 1. PURPOSE

The City of Naples is always looking at ways to “Green” the environment. Composting is a proven “Green” technology. The City of Naples would like to begin disposing of its bio-solids at a composting facility by January 1, 2013.

The purpose of this bid is to obtain competitive pricing for the hauling and disposal to a composting facility of:

- A. Bio-solids (sludge) – Dewatered only (No digestion – 15% to 18% solids) from the City of Naples Wastewater Treatment Plant, 1400 Third Avenue North, Naples, FL 34102.  
(The City utilizes three (3) Komline Sanderson belt presses. These presses are all two (2) meters in size.)
- B. Bio-solids (sludge) – Liquid (1% to 1.5% solids) from the City of Naples Wastewater Treatment Plant, 1400 3<sup>rd</sup> Avenue North, Naples, FL 34102.  
(The City has not hauled liquid sludge since 1986 and this type of hauling is not anticipated to occur during the timeline of this bid. However, emergencies can always occur and the City must be able to dispose of sludge during emergency events.)

#### 2. PRICES

Bid prices will be per ton and will include drop off and pick up of trailers, on an as needed basis. Prices will also include all transportation and disposal fees, tipping fees, environmental and licensing fees, etc., if necessary. The City of Naples is a Municipality and, therefore, is tax exempt.

#### 3. TERM OF CONTRACT

The Contractor may cancel this contract, in whole or in part, by giving 60 days prior notice in writing. However, the Contractor shall not be authorized to exercise this cancellation option during the first 180 days of the contract.

#### 4. LIABILITY

The successful Contractor will be responsible for the immediate cleanup of all spills, regardless of location or time. In addition, the successful Contractor will be responsible for any damage to City of Naples property or any designated vendor sites caused by the Contractor.

#### 5. LICENSES

All equipment operated by & composting site(s) used by the successful Contractor will be properly licensed and permitted.

6. REPORTS

The successful Contractor shall submit monthly tonnage reports to the Wastewater Treatment Plant Supervisor/Superintendent per services rendered for the specific facility located at 1400 3<sup>rd</sup> Ave. N.

7. CITY AUTHORIZED DISPOSAL OF BIOSOLIDS (WASTEWATER SLUDGE)

The Contractor shall submit a per ton cost for the hauling and disposal of each form of Wastewater Bio-solid (sludge) listed below. It is the Contractor's responsibility to understand and adhere to what is outlined and mandated in Chapter 62-640 F.A.C. This includes providing composting disposal site(s) throughout the length of this contract that are permitted by the Florida Department of Environmental Protection (FDEP) and (if applicable) by the Florida County where the disposal site(s) is located. At no time will City of Naples Wastewater sludge be hauled and disposed out of the State of Florida!

- A. The Contractor shall submit a per ton cost to haul and dispose (Following rules outlined in Chapter 62-640 F.A.C.) of a (15%-18%) undigested Bio-solids Cake (sludge). This Cake will be hauled and disposed of at designated Contractor composting location(s). These composting site(s) will be properly permitted and specific in location, address, and/or description for tracking and reporting purposes.
- B. In the event that the City's Sludge Thickening Process Equipment must be taken offline for extended maintenance or repair, the Contractor shall submit a per ton cost to haul and dispose of an undigested Thickened Liquid (1%-1.5%) Wastewater Bio-solids (sludge). This Thickened Liquid Sludge will be hauled and disposed at designated Contractor locations. These dump sites will be properly permitted through the Dept. of Environmental Protection and specific in location, address, and/or description for tracking and reporting purposes. Examples of these dump sites would be a Residual Management Facility or a Wastewater Treatment Plant.
- C. The City is required to perform specific reporting information to the regulatory agencies. Therefore, the Contractor shall provide the following information on each of the delivery tickets:
  - Disposal Site Name & Permit Number
  - Owner of Disposal Site
  - Operator/Driver
  - Applier
  - Latitude and Longitude Coordinates
  - County
  - Section/Tract
  - Amount Hauled
  - Date

## SCOPE OF WORK

### 1. SCOPE

Successful Contractor(s) shall be responsible for the removal and disposal of wastewater bio-solids (sludge) from the City of Naples Wastewater Treatment Plant, 1400 Third Avenue North, Naples, Florida 34102. The Contractor has acknowledged experience and qualifications as listed in **EXHIBIT A-1**

### 2. LEGAL REQUIREMENTS

Successful Contractor(s) must conform to all applicable statutes, regulations, and ordinances of the Federal, State, and Local Governments, including all Florida Department of Transportation (FDOT) regulations (Reference attachment A – FDOT guidelines to be utilized to determine compliance).

### 3. TRAILERS AND EQUIPMENT

#### A. Wastewater Plant

- 1) For Undigested Cake (15%-18%) Wastewater Bio-solids Sludge (As referenced in the Special Conditions Section): For hauling and disposal, the successful Contractor shall furnish a minimum of two (2) 40-yard or three (3) 25-yard, liquid tight trailers per day, including Sundays and Holidays. Within 24 hours of being notified by the City that a trailer is full, the Contractor shall pick up a loaded trailer. The Contractor shall also supply, on site, a trailer transport vehicle (jockey truck) that is fully D.O.T. compliant, power steering, clean, and well maintained. Authorized City employees will move the trailers. The City will provide the fuel for the jockey truck. Contractor shall be responsible for all other maintenance to jockey truck. The Contractor shall provide monthly inspections and required preventative maintenance on the jockey truck. Approximate weight of cake solids is +-1,200 pounds/cu. yd.
- 2) For Undigested Thickened Liquid (1%-1.5%) Wastewater Bio-solids Sludge (As referenced in the Special Conditions Section): The successful Contractor shall furnish adequate tanker units that will transport the liquid sludge to the designated (and properly permitted) Contractor site(s) or Processing Center. The Contractor will be responsible for the proper collection and transport of the Thickened Liquid Sludge to the designated disposal site. In this rare event, the City estimates the need of five to ten-tanker loads per day as determined by the Supervisor/Superintendent and facility capability. Approximate weight of liquid sludge is +-1,700 pounds/cu. yd.

### 4. DEWATERING SCHEDULE

The dewatering schedule is as follows:

- 1) In season: M-F (8 hr shift). The start time is 5:00 AM. The CITY can have a trailer loaded by 7:00 AM -7:30 AM each day. The average will be two trailers per day, M-F. If the plant gets behind schedule, it could be three trailers per day.

- 2) Out of Season: M-W-F or M-T-W-F (8 hr shifts). The start time is 5:00 AM. The average will be two trailers per day. Saturdays & Sunday are off days unless the wastewater plant has solids' issues. The City of Naples WWTP is willing to work with its hauler so the both parties can work at the best efficiency. This schedule and these qualities are approximate and may be subject to change.

5. ESTIMATED ANNUAL REQUIREMENTS

A. Wastewater Plant

The Wastewater Plant, on an annual basis, will generate an estimated 6,000 tons (approximately 10,000 cubic yards) of Bio-solids. Actual quantities may exceed or fall short of these estimates.

EXHIBIT A-1

QUESTIONNAIRE

This questionnaire must be completely filled out and returned as part of your bid. Failure to do so may result in disqualification of your bid. Evaluation of this questionnaire will be a prime factor in the award process.

1. How long has your firm been in business?  
22+ YEARS
2. What is the net worth of your firm?  
WILL PROVIDE INFO UPON REQUEST
3. How many employees are presently on your payroll?  
APPROX 20.
4. Describe your company's qualifications & experience to perform this type of work.  
SEE ATTACHMENT #1
5. Who will be supervising the work to be performed under this contract and what is that person's experience?  
ROBERT V. ROGERS  
- SEE ATTACHMENT #2
6. How many and what types/sizes of vehicles and equipment will be used in this project?  
TANDEM AXLE TRACTORS WITH THREE AXLE DUMP TRAILERS AND A CAPACITY SWITCHER VEHICLE
7. If you do not own this equipment, how do you propose to acquire it?  
PROLINE OWNS ALL EQUIPMENT
8. What is the location of proposed disposal site (s)?  
LEE COUNTY SOLID WASTE DIVISION  
FT MYERS, FL
9. Is this site(s) properly permitted?  
 YES Permit # FLA 658189  
 NO
10. Is your company licensed by Department of Agriculture & Consumer Services?  
 YES License# F1849 SEE COPY ATTACHED  
 NO
11. Is your company licensed (occupational) by Collier County and the City of Naples?  
 YES City License# \_\_\_\_\_  
County License# 080557 SEE ATTACHED  
060278  
 NO
12. What is your Collier County Occupational License Number? 080557 SEE ATTACHED  
060278 COPY  
a. What is the expiration date? 9/30/2012

**EXHIBIT B**

**BASIS OF COMPENSATION**

As consideration for providing the Services as set forth in the Agreement, the CITY agrees to pay, and the CONTRACTOR agrees to accept payment on a time and reimbursement cost basis as follows:

**BID SCHEDULE**

<b>TASK</b>	<b>DESCRIPTION</b>	<b>COST</b>	<b>UNIT</b>
1.	Provide all labor, equipment, permits, tipping fees and all other associated hauling costs to properly haul, process and dispose of <u>Undigested Wastewater Cake 15%-18% Bio-solids Sludge</u> , as specified, approximately 6,000 tons (10,000 cubic yards.)	<u>\$ 52.02</u>	/ton
2.	Provide all labor, equipment, permits, tipping fees and all other associated hauling costs to properly haul, process and dispose of <u>Undigested Wastewater Thickened 1%-1.5% Bio-solids Sludge</u> , as specified, quantity based on level of emergency.	<u>\$ 23.10</u>	/ton

**END OF EXHIBIT B**

## EXHIBIT C

### GENERAL INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work until all similar insurance required of the subcontractor has also been obtained and approved by the Owner.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for Owner's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the Owner, and duly licensed to do business in the state of said Contract.

The Contractor shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

The Contractor shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the Owner, and any subcontractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the Contractor.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

The City of Naples must be named as Additional Insured on the insurance certificate and the following must also be stated on the certificate. "These coverage's are primary to all other coverage's the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. The Certificate Holder shall read as follows:

The City of Naples  
735 Eighth Street South  
Naples, Florida 34102

No City Division, Department, or individual name should appear on the Certificate.  
No other format will be acceptable.

The Certificate must state the bid number and title.

When using the ACORD 25 – Certificate of Insurance only the most current version will be accepted.

The City of Naples requires a copy of a cancellation notice in the event the policy is cancelled. The City of Naples shall be expressly endorsed onto the policy as a cancellation notice recipient.



*[If other insurance or insurance requirements or any waivers, attach as Exhibit C-1 through C-\_\_]*

9.13. Disclaimer. THE RIGHTS, REMEDIES, AND WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER RIGHTS, REMEDIES, AND WARRANTIES EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SYSTEM INTEGRATION, WHICH ARE HEREBY DISCLAIMED BY TYLER.

9.14. Limitation of Liability. In no event will either party be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the use of the Tyler Software Products. Except as otherwise expressly set forth in this Agreement, CONTRACTOR'S liability for damages and expenses arising out of this Agreement, whether based on a theory of contract or tort, including negligence and strict liability, will be limited to the amount of fees set forth in the Investment Summary and paid by CITY. Such License fees reflect and are set in reliance upon this limitation of liability.

9.15. Taxes. The fees set forth in the Investment Summary do not include any taxes, including, without limitation, sales, use or excise tax. All applicable taxes shall be paid by Tyler to the proper authorities and shall be reimbursed by CITY to Tyler. In the event CITY possesses a valid direct-pay permit, City will forward such permit to Tyler on the Effective Date, in accordance with Section II, Article Nine. In such event, CITY will be responsible for remitting all applicable taxes to the proper authorities. If tax-exempt, CITY will provide Tyler with CITY's tax-exempt certificate.

9.16. Severability. If any term or provision of this Agreement or the application thereof, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected thereby, and each term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law.

#### **ARTICLE TEN APPLICABLE LAW**

10.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida or the United States District Court having jurisdiction therein.

### **SECTION III. SOFTWARE LICENSE**

#### **ARTICLE ONE LICENSE GRANT**

1.1. Upon the Effective Date, Tyler hereby grants to CITY a non-exclusive, non-transferable, royalty-free, revocable license to use the Tyler software products set forth in the investment summary attached hereto as Exhibit A ("Investment Summary") and related interfaces (collectively, the "Tyler Software Products") and Tyler user guides provided in or with the Tyler Software Products ("User Guides") for CITY's internal business purposes only and otherwise subject to the terms and conditions of this Agreement. This license is revocable by Tyler if CITY fails to comply with the terms and conditions of this Agreement, including without limitation, CITY's failure to timely pay the Software fees in full. Upon CITY's payment in full for the Tyler Software Products, this license will become irrevocable, subject to the restrictions on use and other terms set forth in this Agreement.

**ACKNOWLEDGMENT**

STATE OF Michigan

COUNTY OF Macomb

SWORN TO AND SUBSCRIBED before me this 12th day of October, 2012.

The Affiant, Robert P. Jones, is [] personally known to me or [ ] has produced \_\_\_\_\_ as identification, which is current or has been issued within the past five years and bears a serial number of other identifying number.

Eileen C. Goss  
Print Name:

Eileen C. Goss  
NOTARY PUBLIC - STATE

OF Michigan  
Commission Number: \_\_\_\_\_

My Commission Expires: 11-25-14  
(Notary Seal)