

AMENDMENT NO. 1 TO
BIOSOLIDS HAULING AND BENEFICIAL USE SERVICES
FOR THE CITY OF OKANOGAN
AT THE BOULDER PARK PROJECT
CONTRACT NO. 06-1013

This Amendment No. 1 to the contract for Biosolids Hauling and Beneficial Use Services for the City of Okanogan at the Boulder Park Project, Contract No. 06-1013 (the "Contract") is made by and among the City of Okanogan, ("the City"), Boulder Park, Inc. and King County, all of which may be referred to collectively hereinafter as the "Parties." The Contract allows the City to have its biosolids beneficially used through land application at the Boulder Park Project Beneficial Use Facility ("BPP") in Douglas County, Washington.

WHEREAS the Parties entered into the Contract, effective September 17, 2013; and

WHEREAS pursuant to Section 6.1 of the Contract the term of the Contract will expire on December 31, 2018; and

WHEREAS pursuant to Section 28 of the Contract, the Parties desire to amend the Contract as set forth herein.

NOW THEREFORE in consideration of the Parties' mutual assent to the modifications set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Parties agree to extend the term of the Contract set forth in Section 6.1 to and including December 31, 2021. The time period from January 1, 2019 through December 31, 2021 shall be referred to hereinafter as the "Extended Term."
2. The second, third and fourth sentences in Section 7.1 of the Contract shall be amended to read as follows:

"Commencing on January 1, 2019, the haul rate shall be \$560.00 per truck load in 2018 dollars. During the Extended Term this haul rate shall be subject to annual adjustments pursuant to Section 8.2.

3. For the Extended Term the third sentence in Section 7.2 of the Contract shall be amended to read as follows:

“Within thirty (30) days after receipt of an invoice, the City will pay BPI for authorized materials accepted and/or services satisfactorily performed including the leasing of KC equipment at the rate of \$14.16 (\$2.99 KC, \$0.23 Tax at Mansfield rate of 7.7%, and \$10.94 BPI) per wet ton (BPI base unit price in 2018 dollars) in addition to the haul rate as outlined in Section 7.1.”

4. During the Extended Term the soil amendment value set forth in the first sentence in Section 7.7, shall be amended to read as follows:

“Commencing on January 1, 2019 BPI will pay the City \$7.50 per dry ton for the nitrogen value of biosolids delivered to the BPP. This payment amount is fixed for the duration of the Extended Term and it is not subject to price adjustments in Section 8. BPI shall be responsible for collecting payment for the biosolids nitrogen value from the grower(s). BPI will make payment to the City within the first quarter of the following year after reconciliation has been completed for tonnage delivered during the calendar year.”

5. During the Extended Term the second paragraph of Section 8.2 starting with the sentence “The soil amendment value per dry ton of biosolids...” and the Example set forth below said paragraph shall not apply.

6. The second sentence in Section 16 which currently reads as follows:

“Should BPI fail to commence or continue performance of this Contract after issuance of the Notice to Proceed, BPI shall reimburse the City for the actual damages and costs incurred by the City until other satisfactory arrangements for up to the remaining term of this Contract can be implemented.” shall be deleted in its entirety and replaced with the following sentence:

“Unless BPI terminates this Contract pursuant to Section 17.1, then if BPI fails to commence or continue performance of this Contract after issuance of the Notice to Proceed, BPI shall reimburse the City for the actual damages and costs incurred by the City until other satisfactory arrangements for up to the remaining term of this Contract can be implemented.”

7. The fourth and fifth sentences in Section 20.3 which currently reads as follows:

“Thereafter, any unresolved controversy or claim arising out of or relating to this contract, or breach thereof, may be settled by arbitration, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

Nothing in this subsection precludes any party from seeking relief from any Superior Court with jurisdiction." shall be deleted in their entirety and replaced with the following:

"Hereafter, any unresolved controversy or claim arising out of or relating to this Contract, or breach thereof, may be resolved by litigation brought in any Superior Court with jurisdiction."

8. Each individual signing this Amendment No. 1 warrants that he or she has the authority to execute this Amendment on behalf of the Party for which that individual signs.

9. Except as modified herein the Parties agree that all other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties execute this Amendment No. 1 to the Contract as of the date last signed below by the Parties.

CITY OF OKANOGAN

By _____

Jon K. Culp, Mayor

Date 12/18/2018

BOULDER PARK, INC.

By _____

Leroy Thomsen, President

Date 12-19/2018

KING COUNTY

By _____

Mark Isaacson
Director, Wastewater Treatment Division

Date 12-24-18

Approved as to form only:

Verna Bromley, Sr Deputy Prosecuting Attorney

Date 12/21/18