

**FIRST AMENDMENT TO BIOSOLIDS PROGRAM  
AGREEMENT BETWEEN  
THE CITY OF LA CROSSE SANITARY SEWER UTILITY  
AND SUNDSTROM'S PIT PUMPING**

This First Amendment is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, between the City of La Crosse Sanitary Sewer Utility, with offices located at 400 La Crosse Street, La Crosse, Wisconsin, 54601 (“**Utility**”), and Sundstrom’s Pit Pumping, with offices located at P.O. Box 515, Colfax, WI 54730 (“**Contracting Party**”).

**Whereas**, the parties previously entered into a Biosolids Program Agreement dated August 26, 2013, which provides for Contracting Party to provide services to the Utility concerning wastewater biosolids that are required to be loaded, transported and applied to agricultural fields; and

**Whereas**, the parties desire to extend such Biosolids Program Agreement and amend the terms and conditions as set forth in this First Amendment.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein exchanged, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties hereto agree as follows:

1. **Term Extension.** Pursuant to Provision 4 (“Term”) of the Biosolids Program Agreement, the term of the Agreement shall be extended for an additional period of time through December 31, 2019, unless terminated earlier pursuant to the termination provisions of the Biosolids Program Agreement or extended by mutual agreement of the parties.
2. **Rates.** Provision 2 (“Rates”) of the Biosolids Program Agreement is amended to add the following:

Commencing on January 1, 2015, the Utility will pay the Contracting Party at the rates set forth in Exhibit B or as the parties otherwise mutually agree, which is subject to the approval of the City of La Crosse Board of Public Works (operating as the Sanitary Sewer Utility Board). Exhibit B is attached to and incorporated into this Agreement.

3. **Rate Adjustment.** The Contracting Party’s unit rate shall be adjusted annually commencing on September 1, 2015 in the amount equal to the average CPI-All Urban Consumers Index for the prior year, based on the U.S. City average. The rate adjustment factor shall be equal to the Current Year index for June divided by the Previous Year’s index, 12-months prior.

EXAMPLE: 
$$\frac{\text{Current Year Index (June)}}{\text{Previous Year's Index (July)}} = \frac{233.504}{229.104} = 1.019$$

Based upon the above EXAMPLE, the rate would be adjusted by +1.9%.

4. **Insurance and Bond.** Pursuant to Provision 14 (“Insurance”) of the Standard Terms & Conditions of the Biosolids Program Agreement, on or before January 31, 2015 and annually thereafter on or before the first of each year, Contracting Party shall provide an updated and current Certificate of Insurance evidencing the required insurance.

In addition, on or before January 31, 2015 and annually thereafter on or before the first of each year, Contracting Party shall provide an updated and current Performance Bond in the amount specified in the Request for Quotations – Biosolids Management Program dated August 26, 2013, which was incorporated into the Biosolids Program Agreement.

5. **Entire Agreement.** This First Amendment contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein. Except as otherwise amended or modified by this First Amendment, any and all terms and conditions of the Biosolids Program Agreement, including but not limited to the Standard Terms and Conditions, shall remain in full force and effect. This Agreement shall be amended only by a formal writing executed by both parties.
6. **Governing Law.** This First Amendment and all questions and issues arising in connection herewith shall be governed by and construed in accordance with the laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this Agreement shall be exclusively in La Crosse County, Wisconsin. Each party waives its right to challenge venue.
7. **Severability.** The provisions of this First Amendment are severable. If any provision or part of this First Amendment or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.
8. **Representations and Warranties.** Each party to this First Amendment represents and warrants that it and the signatories below have the full right, power, legal capacity and authority to enter into and perform the parties’ respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith, except as otherwise provided within this First Amendment.

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment as of the day, month and year as set forth above.

**CITY OF LA CROSSE SANITARY SEWER UTILITY (UTILITY):**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Johnson  
Utility Manager

**SANDSTROM'S PIT PUMPING (CONTRACTING PARTY):**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_