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2 **BILL NO. S-18-02-08**

SPECIAL ORDINANCE NO. S-13-18

3 AN ORDINANCE approving AGREEMENT FOR
4 BIOSOLIDS PROCESSING, HANDLING, and
5 MARKETING OPERATIONS ASSISTANCE,
6 between FOX CONTRACTORS CORPORATION
7 and the City of Fort Wayne, Indiana, in connection
8 with the Board of Public Works.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
10 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

11 **SECTION 1.** That the AGREEMENT FOR BIOSOLIDS
12 PROCESSING, HANDLING, and MARKETING OPERATIONS ASSISTANCE,
13 by and between FOX CONTRACTORS CORPORATION and the City of Fort
14 Wayne, Indiana, in connection with the Board of Public Works, is hereby
15 ratified, and affirmed and approved in all respects, respectfully for:

16 Labor, insurance, material, equipment, tools, power,
17 transportation, miscellaneous equipment, etc., necessary for
18 the management of the Fort Wayne Biosolids Handling
19 Facility located at 6202 Lake Avenue, Fort Wayne, IN
20 46815, including biosolids processing, handling, and
21 operations assistance.

22 The term of the contract is three years with one renewal option for two
23 additional years involving a cost not-to-exceed ONE MILLION THIRTY-EIGHT
24 THOUSAND ONE HUNDRED AND 00/100 DOLLARS (\$1,038,100.00) in the
25 first year and SEVEN HUNDRED TWENTY THOUSAND SIX HUNDRED AND
26 00/100 DOLLARS (\$720,600.00) in each year thereafter. A copy of said
27 Contract is on file with the Office of the City Clerk and made available for
28 public inspection, according to law.
29
30

City of Fort Wayne
Agreement
Biosolids, Lime, and Yard Waste Facility

(Execution Version)

AGREEMENT
FOR
BIOSOLIDS PROCESSING, HANDLING, AND MARKETING OPERATIONS ASSISTANCE
BETWEEN
THE CITY OF FORT WAYNE, INDIANA
AND
FOX CONTRACTORS CORPORATION

Period: January 1, 2018 to December 31, 2020

SECTION I: AGREEMENT CONDITIONS

This AGREEMENT FOR BIOSOLIDS PROCESSING, HANDLING, AND MARKETING OPERATIONS ASSISTANCE ("Agreement") is made and effective this 1st day of January, 2018 ("Effective Date") by and between the City of Fort Wayne, Indiana, a political subdivision of the State of Indiana (hereinafter referred to as the "City") and Fox Contractors Corporation (hereinafter referred to as "Contractor"). The City and Contractor are sometimes collectively referred to herein as the "Parties" and individually as a "Party".

The City and Contractor, for the consideration stated herein, agree as follows:

1. AGREEMENT TERM AND TERMINATION

1.1 Term

The initial term of this Agreement will be for a period of three (3) years beginning January 1, 2018 and ending December 31, 2020 ("Initial Term"). Upon expiration of the Initial Term, this Agreement may be extended for one (1) renewal term of two (2) years, commencing January 1, 2021 ("Renewal Term"). If the Parties desire to extend this Agreement for the Renewal Term, then at least sixty (60) days prior to expiration of the Initial Term, the Parties shall review the expenses, proceeds, and general economics of the Agreement and negotiate any appropriate adjustments to take effect for the Renewal Term. If the Parties are unable to agree on such adjustments, then the Agreement shall terminate upon expiration of the Initial Term.

Notwithstanding the foregoing, this Agreement may be terminated by either Party prior to expiration of the Initial Term or the Renewal Term, as the case may be, in accordance with Section I, paragraph 4.12 hereof.

1.2 Required Approvals

This Agreement, although executed on behalf of the City by the Mayor and the Board of Public Works for the City, shall not be binding upon the City unless and until it has been ratified by the Common Council of the City of Fort Wayne ("Common Council").

2. DESCRIPTION OF SERVICES

For and in consideration of the compensation to be received by Contractor under this Agreement, Contractor agrees to manage the Biosolids Handling Facility (defined below), which is owned by the City. Contractor's duties shall include, without limitation, processing, handling, and marketing operations assistance to the City as further defined in Section II: Base Scope of Services (hereinafter the "Services"). Contractor shall receive a Base Fee (defined below) for its Services under this Agreement. It is expressly understood and agreed that the Base Fee paid to Contractor includes processing of all leaves, grit, biosolids, spoils push up, and lime regardless of tonnage. The City will be permitted to bring waste material from City projects, and Contractor shall process such material at no additional charge.

3. DEFINITIONS

Where the following terms occur herein, the intent and meaning shall be as follows:

"Biosolids Handling Facility" or "BHF" means the facility that receives and processes wastewater sludge, lime sludge, and yard waste located at 5510 Lake Avenue in Fort Wayne. The facility also receives grit, spoil and other recyclable solids as specified.

"Baseline Inventory" means an inventory performed using state of the art survey techniques to reliably estimate and locate the inventory of materials at the City's facility at a specific point in time. Contractor will need to track incoming and outgoing product, adjusted for water on a monthly basis. A summary of the status of the inventory will be included in the quarterly and annual reports described in this Agreement.

"City" means the City of Fort Wayne, 200 E. Berry St., Fort Wayne, Indiana, 46802.

"City Administrator" means the designee of the City's Director of City Utilities who is tasked with overseeing Contractor's performance of this Agreement. As of the Effective Date of this Agreement, the City Administrator shall be the Deputy Director of Capital Assets or his/her designee.

"Contract Discrepancy Report" means a written notification of deficiency in carrying out the terms of this Agreement provided by the City Administrator to Contractor when and as often as required.

"Contract Documents" mean this Agreement, including all exhibits and attachments hereto, and any amendments or addenda to this Agreement. In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the text of this Agreement shall control.

"Contractor" means Fox Contractors Corporation, 5430 Ferguson Road, Fort Wayne, Indiana, 46809.

"Additional Maintenance and Repair Services" means those projects, in addition to the basic scope of Services, that the Contractor shall carry out on behalf of the City over the term of this Agreement.

"Compliant Biosolids" means biosolids received from the WPCP after anaerobic digestion where levels of metals do not exceed the limits contained in Table #3 of 40 CFR 503.13, monthly average concentration, milligrams per kilogram on a dry weight basis.

"Corrective and Minor Corrective Maintenance" means activities that correct a fault or problem, such as the repair or replacement of equipment with like kind equipment due to a failure of that equipment within its useful life. Corrective and Minor Corrective Maintenance activities do not include repairs that alter, modify or otherwise functionally change the operation of the equipment or major activities that would greatly extend or refurbish equipment significantly beyond its normal useful life as defined by GAAP.

For the purposes of the Contractor's equipment maintenance responsibilities listed in Section II, paragraph 2.8 of this Agreement, Minor Corrective Maintenance projects are those taking less than eight (8) man hours to complete and costing less than Two Thousand and 00/100 Dollars (\$2,000.00) in parts per repair and per piece of equipment. Corrective Maintenance projects taking more than eight (8) man hours and costing more than Two Thousand and 00/100 Dollars (\$2,000.00) remain the responsibility of the City and require pre-approval by the WPCP Superintendent.

"Minor Repairs to Lagoons" include repairs made necessary during the routine emptying of a bed or repairs to the clay ramps going into the beds which would cost less than Five Thousand and 00/100 Dollars (\$5,000.00) based upon Contractor's standard Time and Materials (T&M) schedule.

"Notice" means any written notice to be given hereunder by either Party to the other Party, which shall be delivered by certified mail with return receipt requested. Notice to Contractor shall be sufficient if made or addressed to Fox Contractors Corporation, 5430 Ferguson Road, Fort Wayne, Indiana, 46809. Notice to the City shall be sufficient if made or addressed to City of Fort Wayne, Division of City Utilities, 200 E. Berry St., Room 270, Fort Wayne, Indiana, 46802.

"Old Lagoon System" or "Old Lagoons" refers to a site remote from the BHF, which is adjacent to the WPCP at 2601 Dwenger Avenue in Fort Wayne. The Old Lagoons served as the previous deposit site for biosolids and currently are used periodically and for spoil storage.

"Preventive Maintenance" means maintenance tasks that occur on a scheduled frequency as recommended by the equipment manufacturer and required by the City's Fleet Management; provided, however, Contractor may perform preventive maintenance more frequently where the value to and practice of the trade has been established.

"Project Manager" means the designated representative of Contractor who will work with the Program Manger - Residuals and have full authority to act for Contractor on all matters relating to the *daily* operation of the Agreement.

"Spoil" is a mixture of clay, concrete, asphalt, gravel, soil and broken pipe that is generated during the construction, repair or replacement of water, sewer or storm lines and/or repair of streets.

"Surety" means the party who is bound with and for Contractor to ensure the payment of all obligations and lawful debts pertaining to and for this Agreement.

"Three Rivers Water Filtration Plant" or "FLP" is the City's water treatment plant located at 1100 Griswold Drive in Fort Wayne. The FLP produces lime sludge that is processed by the BHF.

"Water Pollution Control Plant" or "WPCP" is the City's wastewater treatment plant located at 2601 Dwenger Avenue in Fort Wayne. The WPCP produces anaerobically digested sludge that is processed by the BHF.

"WPCP Superintendent" means the City employee charged with oversight of this Agreement, programmatic operational decisions, longer term marketing and planning, and coordination necessary to ensure successful operation of this facility.

4. CONTRACTOR'S RELATIONSHIP TO THE CITY

4.1 Contractor as Independent Contractor

It is expressly agreed and understood that Contractor is in all respects an Independent Contractor and that Contractor is in no respect an agent, servant, or employee of the City. This Agreement specifies the work to be done by Contractor, but the time, manner, and method utilized to accomplish the work shall be the responsibility of Contractor.

4.2 Subcontracting

Contractor may subcontract Services to be performed hereunder upon prior written approval by the City. Contractor shall consult periodically with the City Administrator on any subcontracted vendor's performance relating to quality, cost, and deliverability. Such consultation shall not be construed as making the City a party of or to such subcontract, nor shall approval be construed as subjecting the City to liability of any kind whatsoever to any subcontractor. No subcontract shall, under any circumstances, relieve Contractor of its liability and obligations under this Agreement. The City will deal only with Contractor; subcontractors will be dealt with as workmen and representatives of Contractor.

The City encourages Contractor to solicit participation from Minority Business Enterprises in providing supplies and/or services to the City.

4.3 The City Representative

Unless otherwise provided in this Agreement, the City authorizes the City Administrator to act as its representative in all matters relating to this Agreement and/or services being performed hereunder. The City Administrator shall decide all questions that may arise as to the quantity, character, and quality of Services performed or to be performed pursuant to this Agreement.

4.4 Inspection of Work

Contractor shall furnish the City Administrator with every reasonable opportunity to determine whether Contractor's work is performed in accordance with the requirements of this Agreement. The City may appoint qualified persons to inspect Contractor's operations and equipment, and Contractor shall permit such representative(s) to make the inspections at a reasonable time and place.

4.5 Employees

4.5.1 Retained City Employment

The employees of the City currently staffing the BHF shall remain City employees. These employees shall work under the direction of Contractor's Project Manager in order to fulfill the scope of Services included in this Agreement.

4.5.2 Staffing Mix

Throughout the term of this Agreement, the City shall provide a minimum of three (3) employees plus one work leader to assist with management of the BHF. Adjustments to the number of City-provided staff may be made upon mutual agreement of the Parties when necessary to ensure the efficient management of the BHF.

4.5.3 Overtime

City employees staffing the BHF shall have the first right of refusal for any overtime work at the BHF that is required to meet the scope of Services of this Agreement. However, City job continuation policies shall apply to both Contractor and City employees to improve overall efficiency.

Contractor may deny overtime to any City employee who does not meet the Contractor's documented minimum requirements for operating BHF equipment. The Contractor shall propose these minimum requirements for equipment operation to the City for approval.

4.5.4 Manage City Equipment Operators

Contractor will set performance expectations for all City operators based upon industry, equipment, and comparative standards.

4.6 Equipment

All City-owned equipment at the BHF shall remain the property of the City. Equipment provided by Contractor and used in the completion of the Services shall remain Contractor's throughout the term and upon termination of this Agreement. Risk of loss and responsibility for insurance related to each piece of equipment shall be on the owner of the equipment.

City will continue to provide the equipment as previously agreed by City and Contractor. If City-supplied equipment is out of service for more than ten (10) days, the City will rent equipment to replace the equipment that is out of service if required to meet production goals.

Contractor shall provide the equipment necessary to perform the Services outlined in this Agreement. To the extent this equipment is used to fulfill the terms of the scope of Services included in this Agreement, there shall be no additional charge to the City for its use except for equipment specifically identified as to be rented by the City.

4.7 Facilities

The BHF shall remain the property of the City. Contractor shall not use the BHF or any other City facilities for work unrelated to the scope of Services outlined in this Agreement or any other agreement in force between the City and Contractor. Contractor shall not use the facilities in a manner which would in any way conflict with any federal, state and/or local laws, statutes, ordinances, rules, orders, regulations or requirements now in force or which may hereafter be enacted or promulgated.

Contractor shall not make or allow to be made any alterations, additions, or improvements, to or upon the City's facilities, or any part thereof without first obtaining the prior written approval from the City. Any alterations, additions, or improvements to or upon the facilities which are applied to the real property in such a manner that removal would cause damage to said property, including, but not limited to, wall covering, paneling and built-in cabinet work, shall at once become a part of the realty and belong to the City. All work performed by the Contractor shall conform to applicable local building codes.

4.8 Severability

In the event that any term or portion of this Agreement is found to be illegal and/or unenforceable, such term or portion shall be deemed stricken, and the remainder of the Agreement shall remain in full force and effect.

4.9 Choice of Law/Venue

The Contract Documents shall be interpreted in accordance with Indiana law. The Parties agree to submit to jurisdiction and venue in the state or federal courts sitting in Allen County, Indiana.

4.10 Entire Agreement

The Contract Documents contain the entire agreement between the City and Contractor and shall supersede all prior oral and written statements or understandings of any kind made by the Parties or their representatives. Amendments to this Agreement or any of the Contract Documents must be in writing and duly executed by the Parties in accordance with City rules and regulations and other applicable laws and ordinances. In the event of a conflict between this Agreement and any of the other Contract Documents, the provisions of this Agreement shall control.

4.11 Hold Harmless

Contractor shall indemnify, defend and hold harmless the City, its agents, servants, and employees, from and against any and all claims and damages of every kind, for injury to or death of any person or persons and for damage to or loss of property arising out of or resulting from the acts or omissions of Contractor, its agents, servants, employees, or subcontractors in its performance of this Agreement. The City shall indemnify, defend and hold harmless Contractor, its agents, servants and employees, from and against any and all claims and damages of every kind, for injury to or death of any person or persons and for damage to or loss of property, arising out of or resulting from the acts or omissions of the City, its agents, servants or employees in its performance of the Agreement during the term hereof.

4.12 Termination

Notwithstanding anything to the contrary herein, this Agreement may be terminated by either Party for any reason or no reason upon sixty (60) days prior written notice to the other Party. In the event the Agreement is terminated prior to expiration of the Initial Term or the Extended Term, the City and Contractor will review the receipts and expenses incurred as of the date of termination and Contractor shall be entitled to receive a payment equal to five percent (5%) of its actual expenses incurred since the preceding payment from the City as Contractor's profit for the applicable period (excluding special projects such as re-lining lagoons, etc.) (the "Early Termination Fee"). The Early Termination Fee shall be payable by the City to Contractor within sixty (60) days of the date of termination. Upon payment of the Early Termination Fee, the Parties shall be relieved of any further obligations under this Agreement except for obligations related to indemnification, which shall survive termination of this Agreement.

4.13 Major Decisions Concerning the BHF; Dispute Resolution

4.13.1 Management and Decision Making

Contractor shall manage the day-to-day operations of the BHF. However, all major decisions regarding expansion of the business at the BHF will be evaluated and decided by majority vote of a committee consisting of two (2) representatives appointed by Contractor and two (2) representatives appointed by the City. In the event of a tie, the tiebreaker vote shall be cast by the Director of City Utilities.

4.13.2 Dispute Resolution

In the event of any dispute between the Parties, the Parties will initially endeavor to resolve any such controversy, claim, or dispute through good faith discussion and negotiation between the Project Manager and the WPCP Superintendent.

If the Project Manager and the WPCP Superintendent are unable to resolve the controversy, the matter shall be submitted to the committee described in Section I, paragraph 4.13.1 for resolution. In the event of a tie vote by such committee, the tie-breaker vote shall be cast by the Director of City Utilities.

5. PAYMENT OF EXPENSES AND COMPENSATION TO CONTRACTOR

5.1 Expenses

The City shall pay directly the following costs associated with operation of the BHF:

- All fuel costs
- Property taxes
- Utility costs
- Scale maintenance costs and other equipment costs in accordance with Section II, paragraphs 2.8.2 and 2.8.3 of this Agreement
- Any other costs and expenses it has historically paid for operation of the BHF

5.2 Payments to Contractor

In consideration of Contractor's performance of the Services, Contractor shall receive (12) equal monthly installment payments of \$60,050.00 with the first payment being due on January 10, 2018 and a like payment being due on the 10th day of each month thereafter for the duration of this Agreement (the "Installment Payments").

In addition to the Installment Payments, and for the first year of this Agreement only, the Parties agree that Contractor will be paid \$220,000.00 to crush concrete and clean up Spoils from the prior three (3) years and \$97,500.00 to screen the balance of the 2017 Spoils. The total fee to be paid to Contractor for these services equals \$317,500.00 (the "Additional Payment"). Under the terms of this Agreement, the maximum out-of-pocket cost to the City for work performed hereunder (excluding special projects) shall not exceed \$1,038,100.00 during the first year (the total Installment Payments + the Additional Payment) and \$720,600.00 in each year thereafter (the total annual Installment Payments).

5.3 Additional Benefits to Contractor

In addition to the payments described in Section I, paragraph 5.2, Contractor shall be permitted to retain the proceeds from the sale of 50,000 tons of lime and 30,000 tons of biosolids at an agreed value of \$225,600.00 based on an estimated price per ton of \$2.82 (the "Base Sales Proceeds"). If Contractor is able to command a higher price per ton than \$2.82, Contractor shall be entitled to keep the excess proceeds on sales of up to 50,000 tons of lime and 30,000 tons of biosolids. If Contractor is not able to sell product for the estimated value of \$2.82/ton or if Contractor is not able to sell the full 50,000 tons of lime and 30,000 tons of biosolids, Contractor will still be deemed to have received \$225,600.00 under this Agreement and will not be entitled to additional payment from the City to make up any shortfall.

Provided, however, that if sales of lime and biosolids do not reach at least 50,000 tons and 30,000 tons respectively, the City and Contractor will review why these quantities were not met, and the City may, in its sole discretion, order Contractor to cease further processing and terminate the Agreement. In such case, Contractor will be paid at a rate of \$2.82/ton for material that has already been processed and is ready for sale after a survey measurement is completed determining the volume. Contractor shall not receive any additional compensation under the terms of this Agreement, including the Early Termination Fee provided in Section I, paragraph 4.12, unless the City requests additional services from Contractor.

Further, Contractor will be permitted to use the BHF as a dropping point for 25,000 tons of any types of biosolids material the City is authorized to receive under its biosolids marketing and distribution permit, number - IN LA 000313 (currently, this is limited to municipal biosolids) at no charge by the City, subject to approval of the material by the City and possible test results if the City, in its sole discretion, determines that testing is necessary. The Parties agree that this benefit represents a value to Contractor of \$425,000.00 at \$17.00/ton (the "Drop Value").

The Parties acknowledge and agree that the Installment Payments, the Base Sales Proceeds and the Drop Value equal the total base fee set forth on Contractor's cost proposal, a copy of which is attached hereto as Appendix "A" and incorporated by reference herein (the "Base Fee"). In the event that a sudden and unexpected change occurs in market demand, particularly as it relates to large single time uses of biosolids, the City and Contractor agree to re-evaluate pricing of the Base Fee as related to the sudden and unexpected change in market conditions.

5.4 Sales Incentives

In addition to the Base Fee, Contractor shall have the opportunity to earn additional compensation if more than 50,000 tons of lime and 30,000 tons of biosolids are sold. In such a case, the sales on the excess tonnage will be split between Contractor and the City in accordance with the following table:

Annual Tonnage		Percent Split	
Lime	Biosolids	Fox	City
50,001 to 52,499	30,001 to 32,499	25%	75%
52,500 to 59,999	32,500 to 39,999	50%	50%
60,000 plus	40,000 plus	75%	25%

5.5 Excess Drop Off

As noted above, as part of the Base Fee, Contractor shall be permitted to use the BHF as a dropping point for up to 25,000 tons of biosolids material provided that such material complies with the City's permit and is otherwise acceptable to the City. If Contractor brings more than 25,000 tons of biosolids material to the BHF, all tipping fees for the excess tonnage over the original 25,000 will be split between Contractor and the City per the following table:

Annual Tonnage	Percent Split	
	Fox	City
Municipal Biosolids		
up to 25,000	100%	0%
25,001 to 27,999	25%	75%
28,000 to 34,999	50%	50%
35,000 +	75%	25%

City will retain 100% of any incoming tipping fees on non-municipal biosolids material brought to the BHF.

5.6 Special Projects

Special projects that have traditionally been performed by Contractor and were excluded from the Base Fee will be paid at the rate detailed in Contractor's most recent price list, a copy of which is attached hereto as Appendix B. A minimum allowance of \$50,000.00 will be included in the purchase order for the Services but will only be used if required for special projects. In addition to any rates set forth on Appendix B, the following rates for standard labor and the most commonly used pieces of equipment are established:

- Operator Rates/hr:
 - \$74.00 regular time
 - \$99 overtime
 - \$122 emergency

- Equipment rates/hr:
 - Excavator -- \$185.00
 - Dozer -- \$138.00
 - Tri-Axle -- \$61.00
 - Low-Boy -- \$97.00

5.7 Product Revenues

Pricing for operation of the Biosolids Handling Facility will be set at \$20.00 per ton for residential drop-offs, subject to approval of Fort Wayne City Council. This will be prorated with a minimum charge of \$1.00 per transaction. Any further adjustments will require Council and Board of Works approval.

Pricing for commercial or municipal communities may receive a discounted rate based on frequency and overall amounts. This will be determined by the City Superintendent and Deputy Director of Capital Assets.

5.8 Facility Operation and Site Maintenance

Contractor is responsible for facility operations and site maintenance including but not limited to gate keeping, security, debris and litter pick up, and mowing.

The hours of operation of the BHF will be as currently established, any changes in the hours of operation will require prior approval of the WPCP Superintendent or the Deputy Director of Capital Assets. Currently, the hours are:

- April – November 8-6 Monday – Saturday and Noon – 6 on Sunday
- December-March 8-2 Monday- Friday

6. PROJECT STAFFING PROVISIONS

6.1 General

Contractor shall be responsible for selecting personnel to perform the Services to be provided hereunder. However, the City shall retain the right to approve the personnel proposed by the Contractor. No applicant with a felony conviction will be hired. Contractor will obtain from the Fort Wayne Police Department a criminal history records check on each employee prior to hiring.

The City reserves the right to request the dismissal of any of the Contractor's employees whose performance or actions are considered detrimental to the operations of the BHF or to the City; the City may also exercise its termination rights under Section I, paragraph 4.12.

6.2 Contractor Personnel

6.2.1 Project Manager

Contractor shall provide a Project Manager who will act as a liaison with the City Administrator and have full authority to act for Contractor on all matters relating to the daily operation of the Agreement.

On the Effective Date of the Agreement, Contractor and the City will mutually agree on a Project Manager. Contractor shall provide the City with sixty (60) days advance notice of any change to the Project Manager position. Replacement of the Project Manager shall be subject to the advance written approval of the City Administrator. Such approval shall not be withheld unreasonably or for an unreasonable length of time.

6.2.2 BHF Project Administration Specialist

Contractor shall provide a Project Administration Specialist tasked with record compilation, report preparation, inventory management, loading operations scheduling, gatekeeper scheduling, tracking of equipment maintenance and general accounting. The Project Administration Specialist shall supervise the gatekeepers and may be given other supervisory duties as deemed necessary by the Project Manager. On the Effective Date of the Agreement, the Contractor and the City will mutually agree on a BHF Project Administration Specialist.

6.2.3 Other Personnel

Contractor shall provide additional personnel, as needed, to support the operations of the BHF and any amendments.

7. PERFORMANCE

7.1 No Waiver

The failure of the City to insist in any one or more instances upon the performance of any terms, covenant or conditions of the Agreement or to exercise any right thereunder shall not be construed as a waiver or relinquishment of any other term, covenant, delimit or condition or the exercise of any other rights under the Agreement.

8. INSURANCE

8.1 Mandatory Insurance Requirements

Prior to the commencement of the Agreement, Contractor shall obtain and keep in full force and effect until the termination of the Agreement the following insurance with an insurance company licensed and qualified to do business in the State of Indiana, as evidenced by a Certificate of Insurance and/or certified copies of the insurance policy or policies:

- Automobile Liability \$1,000,000 minimum per occurrence;
- General Liability \$2,000,000 minimum per occurrence;
- Aggregate \$5,000,000 minimum per occurrence;
- Products Liability \$1,000,000 minimum per occurrence;
- Completed Operations Liability \$1,000,000 minimum per occurrence; and
- Workmen's Compensation per statutory limits.

All policies shall be occurrence policies. The Certificate of Insurance must identify the City, its Divisions and Subsidiaries as a Certificate Holder and provide that the insurance policy or policies may not be cancelled or non-renewed except with thirty (30) days' notice to the City. It will be Contractor's responsibility to deliver the proper documentation to the City Administrator annually.

8.2 Additional Insured

The City, its officers, employees and elected officials shall be named as additional insured on all liability insurance policies.

8.3 Policy Cancellation

No policy of insurance may be cancelled or non-renewed unless notice is provided to the City at least thirty (30) days in advance of the proposed cancellation or non-renewal.

8.4 Certificate Holder

The City will be the Certificate Holder on any policy or policies of insurance required under this Agreement.

9. JOB SAFETY COMPLIANCE

9.1 OSHA Requirements

It shall be the responsibility of Contractor to comply with all provisions of the Occupational Safety and Health Act as enforced by the U.S. Department of Labor and to require all employees under the direction of the Contractor to comply with this law and all laws affecting job safety.

9.2 Compliance with Applicable Local, State, and Federal Codes

It shall be the Contractor's responsibility to maintain a safety and accident prevention program throughout the term of this Agreement that meets the requirements of local, state and federal codes and all other authorities having jurisdiction over performance of the Services. The Contractor will notify the City of any non-compliance issues that are directly related to facilities and equipment owned by the City.

9.3 Minimum Requirements

At a minimum, Contractor will provide a written Safety Program, a "Lock out/Tag out" Program and a safety-training program for Contractor employees and those City employees under the direction of Contractor. A copy of the Safety Program will be provided to the City Administrator for review and approval prior to the City's acceptance of the plan.

9.4 Compliance with City Safety Requirements

Contractor will comply with all City safety and policy requirements, including but not limited to CDL physicals and accident reporting.

10. DRUG FREE WORKPLACE CERTIFICATION

10.1 Drug Testing of Contractor's Employees

The Contractor will comply with 49 CFR 382 and 49 CFR 40 setting forth requirements as to employees classified as "Safety Sensitive" for all of its employees performing work under this Agreement. The cost of drug and alcohol testing is the responsibility of Contractor. An annual report will be submitted to the City's Risk Management department on the last working day of January of each year of the Agreement.

10.2 Drug Testing of City Employees

The City's employees will be tested under the City's random drug and alcohol screening for CDL holders.

11. MANNER OF PERFORMANCE

Contractor agrees to perform its duties and obligations under this Agreement in a professional manner and in accordance with all applicable local, state and federal laws, rules and regulations. Contractor's failure to do so may result in termination of this Agreement.

12. SERVICE INTERRUPTIONS

12.1 Interruptions due to Contractor Issues

Should the Services be interrupted or reduced during the term of the Agreement by Contractor's employees' work stoppages or slow-downs, Contractor shall continue to provide Services by whatever means available and shall incur all costs associated with the alternate means. If Contractor fails to supply an alternate system, the City shall have the right to continue the Services by whatever means available and charge any reasonable costs associated with the alternate system to Contractor.

12.2 Interruptions due to Back-Ups and Like Events

If a back-up of water should occur due to a plugged drain line or interceptor, during a normal and not excessive rain event, the City and Contractor may negotiate an extension to the Contractor's minimum performance requirements included in this Agreement. Any negotiation on changes to minimum performance requirements shall be requested by the Contractor and accompanied by a detailed description of the problem including maintenance and weather documentation.

12.3 Force Majeure Events

Neither Contractor nor the City shall be liable for the failure to perform their duties or for any resultant damage, loss, etc., if such failure is caused by a catastrophe, riot, war, governmental order or regulation, act of God or other similar act beyond the reasonable control of Contractor or the City. Contractor recognizes the essential nature of the services to be performed hereunder and will use its best efforts to discharge its functions despite such extraordinary occurrences. In the event an extraordinary occurrence prevents performance of the Agreement, Contractor and the City shall negotiate an appropriate adjustment, if any, to the conditions of this Agreement.

13. NO THIRD PARTY BENEFICIARIES

The rights and obligations of the Parties accruing under the terms of this Agreement are solely for the benefit of the Parties executing the Agreement, and no third party beneficiary is intended by any term of the provisions hereof.

SECTION II: BASE SCOPE OF SERVICES

1. OBJECTIVES

The base scope of Services to be provided by Contractor hereunder include management, regulatory compliance, documentation, sampling, analytical, work scheduling, scale maintenance, processing and product marketing and sales.

The objectives of the base scope of Services include:

- Improve the biosolids and lime production of the BHF consistent with the minimum requirements included in this Agreement.
- Improve the cost-effectiveness of the BHF operations.

- Ensure compliance with local, state, and federal regulations and requirements governing BHF operations.

2. STATEMENT OF WORK

2.1 General

Contractor will accept ownership of and responsibility for dewatering, removal, storage, composting, marketing, sale and all other functions needed to convert lime slurry, compliant biosolids from anaerobic digestion, and specific yard wastes into a variety of products as Contractor determines necessary for market conditions. Contractor will also be asked to separate spoil into clay, aggregate and material to be disposed by land filling and dewater sewer maintenance grit. Except as otherwise set forth in this Agreement, Contractor will have complete control over the product content, processing, marketing and pricing of the products. Pricing for residents (not commercial) who drop off yard wastes will continue to be determined by the City as set forth in Section I, paragraph 5.7. The City also requires that Contractor maintain a supply of biosolids, lime and mulch to be given free of charge to citizens.

2.2 Compliance

Contractor is required to maintain compliance with all laws, regulations, and permits. Sampling will be performed by Contractor, but the testing will be covered under the City's contract for laboratory analysis. The BHF facility operates under an Indiana biosolids marketing and distribution permit, number-IN LA 000313.

2.3 Yard Management

Contractor shall provide all services required to manage, control, track and report on the progress of work stipulated in this Statement of Work, including management and coordination of biosolids staff and subcontractors. Contractor will have written SOPs (Standard Operating Procedures) for all processing and other operations. Contractor shall provide monthly, quarterly and annual reports to the City. The reports shall include weather conditions, with specific attention to rainfall and impact on processing in terms of days or tons lost, tons of material processed, tons of product both made and remaining at the site, an estimated running inventory.

Contractor will maintain hours of operation for the drop-off of yard waste by the general public, as listed in Section I, paragraph 5.8. Any change in gate hours requires pre-approval by the City. Contractor will also maintain tracking as needed to maintain a separate yard waste account.

2.4 Inventory

2.4.1 Initial Inventory

Contractor shall within one month of the Effective Date of the Agreement develop a detailed and accurate Baseline Inventory for the BHF and the Old Lagoons, identified by material and location and total of each material.

2.4.2 Working Inventory

Contractor will track incoming and outgoing product, adjusted for water on a monthly basis. A summary of the status of the perpetual inventory will be included in quarterly reports.

2.4.3 Annual Review of Inventory and Reporting

Annually, the Contractor will update the inventory via a physical review and include this update in the annual report; including an explanation of any discrepancies between the quarterly reports and annual physical update.

2.5 Processing

Contractor will schedule the processing, composting, screening, mixing necessary to meet market demand for the products. Contractor will use biosolids staff and equipment and supplement with their labor and equipment as needed to process materials in order to satisfy market demands and overall City contractual quantity requirements. Contractor is expected to maintain the shallow bed dewatering process.

2.6 Products

Contractor will create products from the raw materials available to satisfy their markets. Subject to Section I, paragraph 5.7, Contractor will have full control over the pricing and production of the products from receipt at the drying beds to final sale/disposal.

Contractor will keep all revenues relating to sales of up to 50,000 tons of lime and 30,000 tons of biosolids. Sales in excess of those respective tonnages, will be split between Contractor and the City in accordance with Section I, paragraph 5.4.

2.7 Future Spoils

The City will bid the crushing and screening of spoils when it determines the need. Contractor will be allowed to bid on this work.

2.8 Maintenance

2.8.1 Preventative Maintenance

Contractor will perform Preventative Maintenance on City equipment in conformance with the manufacturer's and City requirements and will keep maintenance records. Contractor will document the maintenance on forms supplied by the City and submit the completed forms to the City CMMS Administrator on a monthly basis.

2.8.2 Minor Corrective Maintenance

Contractor will perform Minor Corrective Maintenance to City equipment. The Contractor will pay for the first eight (8) hours of repair labor and the first \$2,000 in parts for Minor Corrective Maintenance equipment repairs. These thresholds are per repair and per piece of equipment. Contractor will make every effort to identify problems which cannot be handled within the window of time and cost of parts framework; these Corrective Maintenance

repairs require City approval and will not be reimbursed by Contractor to the City using the 8 hours, \$2,000 parts criteria.

The Contractor will complete Minor Corrective Maintenance on City vehicles and equipment within one (1) week of a vehicle being out of service. If this standard cannot be met, the Contractor shall provide to the City Administrator a satisfactory explanation of the reason for the delay and an estimate as to when the work will be completed.

2.8.3 Scale Maintenance

Contractor will calibrate and maintain the scales to industry standards. If repairs are necessary, the payment framework established in paragraph 2.8.2 will be applied.

2.8.4 Pump and Lift Station Maintenance

WPCP will ensure that lift stations are maintained and that appropriate spare pumps are available. Contractor is responsible to notify the WPCP Superintendent if systems seem to be malfunctioning.

2.8.5 Bed Maintenance and Rehabilitation

1. Contractor will inspect and perform routine maintenance on beds, bed liners and bed outlets. Contractor will document inspections and maintenance of each bed.
2. Contractor will perform any necessary major rehabilitation beds; a major rehabilitation is defined as a complete re-lining of a bed. Major rehabilitation of beds will be priced as listed in this Agreement and requires prior written approval from the City Administrator.
3. Minor repairs of the lining or ramps will be performed by Contractor at no additional charge to the City. See definitions for clarification of "Minor Repairs to Lagoons".

2.8.6 Road Maintenance

1. Contractor is responsible for maintenance of the roadways including grading and placement of aggregate. If aggregate is needed, the City will buy any aggregate necessary to maintain the roads.
2. Contractor is responsible for watering the roads to keep the dust down as needed and/or as required for compliance with fugitive dust regulations.

2.8.7 Facility Maintenance

Contractor is responsible for maintaining the appearance of the yard and entrances; activities necessary will be litter removal from entrances, ensuring that junk or materials that are not re-useable do not accumulate in the yard, and entrances will require routine mowing during the growing season.

2.8.8 Work at Site of Old Lagoons

1. For any work necessary to be performed at the Old Lagoons, Contractor will be paid only for mobilization and trucking per the Price List, Appendix B.
2. Mobilization to the Old Lagoons will require prior approval of the WPCP Superintendent.

2.9 Determine Re-Use Options

Upon occasion, the City needs determination if a particular waste stream may be suitable for re-use either within a City application or outside of the City's use. The requesting department will submit a sample along with a request for re-use options. Contractor will respond within eight (8) weeks with a determination and, if appropriate, a proposal for handling the additional waste stream. Examples of materials the City may want to investigate re-use options for include grit and sweeper dirt.

2.10 Procurement and Budget Advisor

Consistent with its oversight and management of BHF operations, Contractor shall make recommendations to the City Administrator concerning the purchase of discretionary items for the BHF, including materials, supplies, and purchased services.

During the annual budget cycle, Contractor shall make recommendations as to appropriate amounts to be budgeted to support facility operations.

2.11 Community Involvement

Contractor will be expected to assist with the City's community outreach efforts related to biosolids initiatives in accordance with the marketing plan established pursuant to Section II, paragraph 2.13 below. These include, but are not limited to, participation in Solid Waste District Board Meetings, Earth Day activities, the Home and Garden Show, and the Utility Advisory Group.

2.12 Citizen Complaints

Contractor shall ensure that work at the BHF is done in a way to minimize customer complaints regarding fugitive dust, odor, noise, and queues at the entrance gate. For any citizen complaints received, Contractor will write a brief summary of the report, the suspected cause and any corrective actions possible or necessary to prevent future reoccurrences.

2.13 Marketing Efforts

Marketing of the products and services offered at the BHF is essential to the success of this Agreement. The committee responsible for major decisions affecting the BHF described in Section I, paragraph 4.13.1, will develop a marketing plan to expand the revenue generated by the BHF. Contractor shall be responsible for implementing the plan established by the committee.

2.14 Weather Monitoring

Contractor shall record and document rainfalls, snowfalls, floods and other acts of nature or

pump failure which result in flooding, loss of work time, citizen complaints, and/or white out conditions. The documentation includes, but is not limited to, rainfall events, river height, depth of water in flooded areas, wind speed, and wind direction.

SECTION III: PERFORMANCE STANDARDS

1. PRODUCTION REQUIREMENTS

1.1 Production Base

The Services provided by Contractor includes minimum production at the following levels:

- Lime--50,000 tons annually @ a minimum of 68.5% solids; and
- Biosolids--30,000 tons annually @ minimum of 60% solids, may include leaves (only annual leaves mixed with biosolids will be included in the biosolids goal)

The Parties acknowledge and agree that any production in excess of the foregoing levels is included in the Base Fee and Contractor shall not be entitled to additional compensation for such production except as set forth in this Agreement.

1.2 Production Demonstration Calculations

Production quantities will be calculated on an annual basis. The achievement of any amount of biosolids and/or lime production less than required minimums may result in termination of the Agreement.

2. TERMINATION ACTIONS

The following non-performance actions are examples of the reasons the City may elect to terminate this Agreement prior to expiration of the Initial Term or the Renewal Term:

- Incorrect or late preparation of monthly compliance reporting submittals, point of determination will be the City Administrator;
- Failure to follow internal tracking procedures as established in SOPs;
- Any distribution of non-compliant products;
- Failure to update information sheet as required in permit;
- Failure to ensure that samples are properly taken and documented as established in SOPs and/or standard sampling requirements;
- Failure to review analytical information and take appropriate action, if necessary
- Any reports of illegal or unprofessional conduct of any Contractor employee/staff or subcontractor (gatekeepers, bookkeeper/administrator, site manager, etc.);
- Failure to meet any deadlines contained in this Agreement; or
- Failure to comply with other terms of this Agreement.

The foregoing list is not exhaustive and shall not affect either Party's ability to terminate this Agreement for any other reason, or no reason, upon sixty (60) days written notice to the other Party as set forth in Section I, paragraph 4.12.

SECTION IV: RECORD KEEPING AND REPORTING

1. RECORDS

Contractor shall provide the City Administrator or his/her designee access at all reasonable times to all electronic and hard data, books, records, correspondence, instructions, plans, drawings, receipts, vouchers, and memoranda of every description related to the operation of the BHF and the implementation of this Agreement.

2. PERIODIC REPORTS

Contractor will submit monthly reports to the City Administrator on materials processed, materials sold/disposed of, yard waste received, and other important indices, as agreed upon by the Contractor and City Administrator. Contractor will also submit monthly reports on equipment and fleet maintenance performed status of maintenance and repair projects, and summary totals of materials processed and sold/disposed. Contractor will submit quarterly reports on performance indices above, plus measures of the costs incurred at the facility and the projected or realized savings. On an annual basis, there will be a contract performance review, reviewing end of the year totals for costs, savings, production and relevant incentives or bonuses.

In addition, Contractor shall comply with all reporting required by any regulatory agency or legal authority.

3. ANNUAL REPORTS

Contractor shall provide the City with a written annual report. The annual report shall contain a summary of the year's activity.

4. PERFORMANCE MEETINGS

Performance evaluation meetings shall be held between the Contractor, City Administrator and others, as necessary. These meetings will not usually be held more than once a month and will not extend beyond a period of one hour, absent exigent or unusual circumstances. The City Administrator reserves the right to schedule more frequent and/or longer meetings if the Contractor's performance does not meet acceptable quality levels as specified in this Agreement.

5. CONTRACT DISCREPANCY REPORTS

Verbal notification of a contract discrepancy will be made to the Project Manager or designee as soon as possible whenever a contract discrepancy is identified. The Project Manager shall resolve the problem immediately.

Contractor shall maintain a log noting the date of verbal contract discrepancy notifications, date the discrepancy was addressed and a summary of the discrepancy and the resolution. The City Administrator shall determine whether a formal Contract Discrepancy Report shall be issued. If a Contract Discrepancy Report is issued, it will be mailed or hand delivered to the Project Manager.

Upon receipt of a Contract Discrepancy Report, Contractor is required to respond in writing to

City of Fort Wayne
Agreement
Biosolids, Lime, and Yard Waste Facility

(Execution Version)

the City Administrator within the time period specified acknowledging the reported discrepancy or presenting contrary evidence and presenting a program for immediate correction of all failures of performance identified in the Contract Discrepancy Report. Failure to do so will be considered a material breach of Agreement and the Agreement will be subject to termination.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the Effective Date.

FOX CONTRACTORS CORPORATION
"CONTRACTOR"

By: *Dallas D. Day*
Title: *President*

CITY OF FORT WAYNE
"CITY"

By: *Tom Henry*
Tom Henry, MAYOR

BOARD OF PUBLIC WORKS

By: *Shan Gunawardena*
Shan Gunawardena, CHAIR

By: *Kumar Menon*
Kumar Menon, MEMBER

By: *Mike Avila*
Mike Avila, MEMBER

ATTEST: *W. F. ...*

Appendix A: Cost Proposal

2018 Maximum Payout to Fox:

Spolls Screening	- \$97,500
Concrete Crushing	-\$220,000
Annual Operation Cost	<u>-\$720,600</u>
2018 Total	\$1,038,100

2019 Maximum Payout to Fox:

Annual Operation Cost	<u>-\$720,600</u>
2018 Total	\$720,600

2020 Maximum Payout to Fox:

Annual Operation Cost	<u>-\$720,600</u>
2018 Total	\$720,600

If contract is extended for 2 option years:

2021 Maximum Payout to Fox:

Annual Operation Cost	<u>-\$720,600</u>
2018 Total	\$720,600

Spolls Screening and Concrete Crushing will be Bid through RFP process

2019 Maximum Payout to Fox:

Annual Operation Cost	<u>-\$720,600</u>
2018 Total	\$720,600

There will be a 10% contingency Budgeted by the Utility each year to cover unexpected costs for material handling, handling of Storm Debris, and emergency work if needed at the discretion of the City.

Appendix B: Price List

Fox Contractors Corp.
 2017 Equipment and Labor Rental Rates
 Valid April 1, 2017 to March 31, 2018

Equipment & Tools Rates (Operator NOT Included)

see below for labor rates

ITEM	Per Hr.
Trucks	
Singleaxle Dump	\$50.00
Tandemaxle Dump	\$50.00
Triaxle Dump	\$61.00
Lowboy Tractor	\$97.00
Singleaxle H2O	\$61.00
Tandemaxle H2O	\$77.00
613 Type Water Wagon	\$168.00
Hydro Seeder	\$153.00
DOZERS	
D3 Size Dozer	\$79.00
D4 Size Dozer	\$90.00
D5 Size Dozer	\$100.00
D6 Size Dozer	\$138.00
D7 Size Dozer	\$180.00
D8 Size Dozer	\$210.00
D5 Size Dozer w/ GPS	\$133.00
D6 Size Dozer w/ Laser	\$117.00
D6 Size Dozer w/ GPS	\$209.00
EXCAVATORS	
Rubber Tire Backhoe	\$64.00
304C Size Excavator	\$103.00
312 Size Excavator	\$122.00
320 Size Excavator	\$143.00
328 Size Excavator	\$174.00
336 Size Excavator	\$185.00
345 Size Excavator(*)	\$243.00
LOADERS	
Skid Steer Loader	\$49.00
Track Skid Steer Loader	\$86.00
939 Track Loader	\$107.00
3 CY Front End Loader	\$116.00
4 CY Front End Loader	\$128.00
6 CY Front End Loader	\$163.00
GRADERS	
140 Grader	\$138.00
140 Grader w/ GPS	\$169.00
14 Grader	\$174.00
14 Grader w/ GPS	\$201.00
EARTHMOVERS	
627 Scraper(*)	\$294.00
613 Elevating Scraper	\$189.00
21 CY Pull Scraper	\$51.00
30 TN Haul Truck (*)	\$210.00
40 TN Haul Truck(*)	\$224.00
COMPACTION	
Smooth Drum Wheel Roller	\$91.00
815 Sheepsfoot Compactor	\$192.00
Pad Foot Wheel Roller	\$91.00
MISCELLANEOUS	
Vermeer Wheel Trencher(*)(**)	\$418.00
Vermeer Chain Trencher(*)(**)	\$332.00
Teamec 900 Trencher(*)(**)	\$332.00
Gomaco 9500 Trimmer	\$316.00

Accepted By:

Authorized Signature

Company

Company

Date

Large Case Tractor	\$128.00
Small Tractor	\$84.00
Tractor & Disc	\$128.00
Ditch Wilch Small Trencher	\$58.00

Please Note: Labor is in addition to the above Equipment and Truck Rates

Please Call for Day, Week, and Month Rates on Equipment

(*) Minimum 4 hours move in and setup time required + Permits + Hauling Time

(**) Rock or concrete cutting ADD \$100 per hour

TOOLS	<u>Reg.</u>	
Pull Type Water Wagon	\$25.00	Hr
Air Curtain	\$95.00	Hr
Straw Blower	\$30.00	Hr
Chipper	\$125.00	Hr
Hydro Seeder Trailer	\$25.00	Hr
Testing Trailer	\$25.00	Hr
Fusion Trailer	\$55.00	Hr
Tilt Top Trailer Misc - Dump Pull	\$25.00	Hr
Small Trailer Misc - Pickup Pull	\$15.00	Hr
Light Plant	\$30.00	Hr
Water Pump - 6" with Hoses	\$150.00	Day
Water Pump - 4" with Hoses	\$120.00	Day
Water Pump - 3" with Hoses	\$100.00	Day
Water Pump - 2" with Hoses	\$75.00	Day
Air Compressor	\$75.00	Day
Stone Box	\$100.00	Day
Cut-Off Saw or Chain Saw	\$50.00	Day
Laser Plains and Sewer Beams	\$75.00	Day
Air Compressor w/ Tools - 75 CMP	\$100.00	Day
Air Compressor w/ Tools - 150 CMP	\$100.00	Day
Rome Disc	\$150.00	Day
Roller - Sheepsfoot - Pull Type 4x4	\$150.00	Day
Roller - Sheepsfoot - Pull Type 6x6	\$150.00	Day
Plate Tamper - Small	\$50.00	Day
Grader Box	\$150.00	Day
Jersey Box	\$100.00	Day
Roll Rake	\$75.00	Day
Pull Sheepsfoot	\$125.00	Day
Jumping Jack	\$50.00	Day

MISC. TRUCKS	<u>Reg.</u>
Foreman Truck	\$26.00
Job Truck	\$21.00
1TN Flatbed Truck	\$38.00
1TN Dump Truck	\$38.00
Engineer Van	\$43.00
Grease Truck	\$105.00
Mechanic Service Truck	\$71.00
Lowboy Trailer	\$34.00
Singleaxle Flatbed	\$47.00
Tandemaxle Flatbed	\$57.00
Pothole Machine	\$51.00
Powerbroom	\$84.00

Please Note: Prime Movers and Labor are in addition to the above Tool and Misc. Truck Rates

Accepted By:

Authorized Signatures

Company

Date

Labor Rates

Item	<u>Reg.</u>	<u>OT</u>	<u>Premium</u>
Supervision/Foreman	\$77.00	\$102.00	\$125.00
Local 103 Indiana Operator	\$74.00	\$99.00	\$122.00
Local 150 (10 County) Indiana Operator	\$77.00	\$100.00	\$123.00
Local 150 (4 County) Indiana Operator	\$89.00	\$128.00	\$158.00

Local 181 Indiana Operator	\$70.00	\$93.00	\$115.00
Local 841 Indiana Operator	\$72.00	\$95.00	\$118.00
Local 213 Indiana Laborer	\$57.00	\$76.00	\$93.00
IN Lake County Laborer	\$64.00	\$86.00	\$108.00
Local 18 Ohio Schedule II Class A Operator	\$73.00	\$96.00	\$117.00
Local 18 Ohio Schedule II Class B Operator	\$66.00	\$86.00	\$104.00
Local 324 Michigan Operator	\$75.00	\$98.00	\$119.00
Indiana Combo Laborer/Teamster	\$64.00	\$85.00	\$106.00
Indiana Teamster	\$64.00	\$85.00	\$106.00
LOCAL 324 Area - Michigan Laborer	\$62.00	\$80.00	\$105.00
Local 150 - Illinois Operator	\$111.00	\$146.00	\$181.00
Layout & Staking Crew	\$240.00	\$240.00	\$320.00

**Please Call for rates of Locals outside of the ones listed.

***Above labor rates include small tools and incidentals.

Please Note: Hourly labor rates are based on 8 hr days. Overtime is after 8 hrs a day Mon-Fri and all day Saturday. Premium time is all day Sunday and Holidays. Please add \$3.00 an hour for building and trades work. Minimum 2 hours will be charged to move equipment and labor to job site in Allen County. Outside Allen County it will be charged at 2 hours + actual additional move in time. Labor will be charged at 2-4-8 union work rules. Show up time 2 hrs., 2-4 hrs. pays minimum 4 hours, and 4-8 hours pays minimum 8 hours.

Accepted By:

Authorized Signature

Company

Date

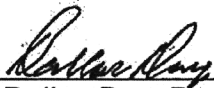
CONTRIBUTION STATEMENT BY A BUSINESS ENTITY

I, Dallas Day, over the age of eighteen (18) years old, affirm under the penalties of perjury as follows:

1. I am the President of Fox Contractors Corporation, a business entity within the meaning of Section 37.28(D) of the Fort Wayne Code of Ordinances.
2. As President of Fox Contractors Corporation, I am authorized to execute this Contribution Statement by a Business Entity on behalf of Fox Contractors Corporation.
3. Since January 1, 2018, neither Fox Contractors Corporation nor any of its covered principals, partners, officers or subsidiaries has made a contribution to any City of Fort Wayne candidate or holder of public office that would disqualify Fox Contractors Corporation from entering into a contract with the City of Fort Wayne pursuant to Section 37.28(A)-(B).
4. This Contribution Statement by a Business Entity is made pursuant to Section 37.28(G) of the Fort Wayne City Code to support approval of the Agreement for Biosolids Processing, Handling, and Marketing Operations Assistance between the City of Fort Wayne, Indiana and Fox Contractors Corporation.

FOX CONTRACTORS CORPORATION

2/8/18
Date

By: 
Dallas Day, President

MEMO

To: Members of City Council

From: John Clark and Brandon Almas

Re: Agreement related to Management of Biosolids Handling Facility

Date: February 8, 2018

Dear Members of Council,

We are asking you to approve a new contract with Fox Contractors Corporation for the management of the City's Biosolids Handling Facility off Lake Avenue. The prior contract with Fox was a 10 year contract and expired on December 31, 2017.

In April 2017, we issued a Request for Proposals ("RFP") to ten firms that are in this market all around the country. Three firms attended our pre-bid discussion. Fox was the only company that submitted a final proposal.

We began negotiating a new contract with Fox based on Fox's proposal and some of the changes we wished to make in the old contract. A summary of the key changes that were incorporated into the new contract are as follows:

- We have moved from a 10 year contract to a 3 year contract with one 2 year renewal option. The reason for the shorter contract is we are anticipating some changes in yard waste handling and processing and volume of high strength waste that could impact costs and operations. We are also pushing for expanded cooperation with the County Solid Waste Department to handle more tonnage at the County recycling site.
- The old contract included screening of spoils, but did not include crushing of concrete. We have removed the screening/crushing work from the new contract, so we can bid it out and potentially realize some additional cost savings.
- In the old contract, Fox received all money from the sale of processed lime and biosolids. With the new contract, Fox and the City share proceeds from sales of these materials in varying percentages depending on the amount sold.
- The cost for the new contract is \$1,038,100 in the first year and \$720,600.00 in each year thereafter. If we include the anticipate cost for screening spoils and crushing concrete (estimated at \$716,000) the average annual cost to the City under the new contract is \$927,300.00. The average annual cost under the old agreement was \$1,421,571. The new contract represents an annual savings of approximately \$494,271 per year, which could save the City over \$2 million over the next 5 years.
- The old agreement was had specific requirements regarding the amount of material that Fox had to process. The new agreement establishes minimum thresholds for lime and biosolids, but requires Fox to process all material brought to the facility including material the City brings from its own projects.

We believe this is a good agreement for the City and respectfully ask for your approval.

BILL NO. S-18-02-08

REPORT OF COMMITTEE ON CITY UTILITIES

February 20, 2018

Glynn Hines Chair

Russell Jehl Co-Chair

All Council Members

An Ordinance approving Agreement for Biosolids processing, handling and Marketing Operations assistance between Fox Contractors Corporation and the City of Fort Wayne, Indiana, in connection with the Board of Public Works

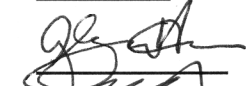



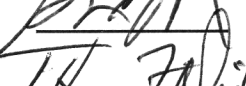
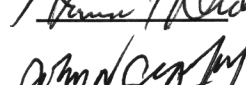



COMMITTEE ON CITY UTILITIES HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

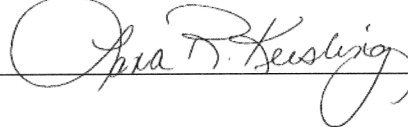
DO NOT PASS

ABSTAIN

NO REC

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**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Hines.

Read the second time by title and referred to the City Utilities Committee.

Read the third time in full and on motion by Councilman Hines, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: February 27, 2018




 LANA R. KEESLING, CITY CLERK

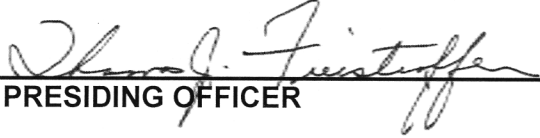
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Special Ordinance No. S-18-02-08 on the 27th day of February, 2018

ATTEST:



 LANA R. KEESLING
 CITY CLERK



 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th of February 2018, at the hour of 10:10 o'clock A.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28th day of FEBRUARY 2018, at the hour of 3:00 O'clock PM . E.S.T.



 THOMAS C. HENRY, MAYOR