

C-94375-4

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**AMENDMENT NO. 4 TO  
AGREEMENT BETWEEN THE CITY OF LOS ANGELES  
AND RESPONSIBLE BIOSOLIDS MANAGEMENT, INC., FOR THE LOADING,  
TRANSPORTING AND BENEFICIAL USE OF THE CITY BIOSOLIDS**

**INDEX TO  
 AGREEMENT BETWEEN THE CITY OF LOS ANGELES  
 AND RESPONSIBLE BIOSOLIDS MANAGEMENT, INC., FOR THE LOADING,  
 TRANSPORTING, AND BENEFICIAL USE OF CITY BIOSOLIDS  
 (AMENDMENT NO. 4 TO CONTRACT C-94375)**

<u>ARTICLES</u>		<u>PAGE</u>
ARTICLE 1	CONSTRUCTIONS OF PROVISIONS AND TITLES HEREIN	5
ARTICLE 2	DEFINITIONS	5
ARTICLE 3	PROJECT DESCRIPTION	5
ARTICLE 4	RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY RBM	5
ARTICLE 5	RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY	6
ARTICLE 6	SUSPENSION AND TERMINATION	6
ARTICLE 7	SUBCONTRACTORS	6
ARTICLE 8	COMPENSATION, INVOICING AND PAYMENT	6
ARTICLE 9	CHANGES AND MODIFICATIONS	9
ARTICLE 10	INSURANCE AND BONDS	9
ARTICLE 11	INDEMNIFICATION	9
ARTICLE 12	INDEPENDENT CONTRACTOR	9
ARTICLE 13	WARRANTY AND RESPONSIBILITY OF RBM	9
ARTICLE 14	NONDISCRIMINATION, EQUAL EMPLOYMENT PRACTICES AND AFFIRMATIVE ACTION PROGRAM	9
ARTICLE 15	MINORITY AND WOMEN BUSINESS ENTERPRISE OUTREACH PROGRAM	9
ARTICLE 16	PROHIBITION AGAINST ASSIGNMENT OR DELEGATION	9
ARTICLE 17	CONTACT PERSONS – PROPER ADDRESSES – NOTIFICATION	9
ARTICLE 18	TERM OF AGREEMENT	10
ARTICLE 19	FORCE MAJEURE	10
ARTICLE 20	TIME OF EFFECTIVENESS	10
ARTICLE 21	DISPUTES	10
ARTICLE 22	INTEGRATED AGREEMENT	10
ARTICLE 23	APPLICABLE LAW, INTERPRETATION, ENFORCEMENT AND SEVERABILITY, SUCCESSORS AND ASSIGNS	10
ARTICLE 24	CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE	10
ARTICLE 25	TECHNICAL REVIEW AND ADVISE COMMITTEE	10
ARTICLE 26	PROTECTION OF TRADE NAME PRODUCTS	10
ARTICLE 27	CLAIMS FOR LABOR AND MATERIALS	10
ARTICLE 28	CHILD SUPPORT ASSIGNMENT ORDERS	11
ARTICLE 29	LIVING WAGE ORDINANCE (LWO)/SERVICE CONTRACTOR WORKER RETENTION ORDINANCE (SCWRO)	11
ARTICLE 30	BURMA (MYANMAR) POLICY	11
ARTICLE 31	EQUAL BENEFITS ORDINANCE	11
ARTICLE 32	CONTRACTOR RESPONSIBILITY ORDINANCE	11
ARTICLE 33	BREACH	11
ARTICLE 34	DISCOUNT TERMS	11
ARTICLE 35	MUNICIPAL LOBBYING ORDINANCE	11
ARTICLE 36	SLAVERY DISCLOSURE ORDINANCE	11
ARTICLE 37	CONTRACTOR PERFORMANCE EVALUATION ORDINANCE	11
ARTICLE 38	KEY CONTRACTOR PERSONNEL	11

ARTICLE 39	WAIVER	11
ARTICLE 40	AMERICANS WITH DISABILITIES ACT	12
ARTICLE 41	ENTIRE CONTRACT	12
ARTICLE 42	PERMITS	12
ARTICLE 43	MAINTENANCE OF RECORDS	12
ARTICLE 44	FALSE CLAIMS ACT	12
ARTICLE 45	FIRST SOURCE HIRING ORDINANCE	12
ARTICLE 46	COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) FOR MEASURE H/CONTRACTOR CONTRIBUTIONS/FUNDRAISING	12
ARTICLE 47	IRAN CONTRACTING ACT OF 2010	13
ATTACHMENT 1	EMS CONTRACTOR REQUIREMENT	
ATTACHMENT 2	COMPOSTING SITE MAP	
ATTACHMENT 3	RBM LIST OF EQUIPMENT AND FARM LABOR	
ATTACHMENT 4	CONTRACTOR RESPONSIBILITY ORDINANCE	
ATTACHMENT 5	BUSINESS TAX REGISTRATION CERTIFICATE ORDINANCE	
ATTACHMENT 6	AFFIRMATIVE ACTION PLAN ORDINANCE	
ATTACHMENT 7	INSURANCE	
ATTACHMENT 8	EQUAL BENEFITS ORDINANCE	
ATTACHMENT 9	SERVICE CONTRACTOR WORKER RETENTION ORDINANCE/ LIVING WAGE ORDINANCE	
ATTACHMENT 10	NON-COLLUSION AFFIDAVIT	
ATTACHMENT 11	MUNICIPAL LOBBYING ORDINANCE	
ATTACHMENT 12	CONTRACT HISTORY	
ATTACHMENT 13	LOS ANGELES RESIDENCE INFORMATION	
ATTACHMENT 14	SLAVERY DISCLOSURE ORDINANCE	
ATTACHMENT 15	MBE/WBE/OBE SUBCONTRACTOR OUTREACH PROGRAM	
ATTACHMENT 16	FIRST SOURCE HIRING ORDINANCE	
ATTACHMENT 17	CONTRACT BIDDER CAMPAIGN CONTRIBUTION AND FUNDRAISING RESTRICTIONS	
ATTACHMENT 18	IRAN CONTRACTING ACT OF 2010 AFFIDAVIT	

**AMENDMENT NO. 4 TO AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND RBM FOR THE LOADING, TRANSPORTING AND BENEFICIAL USE OF CITY BIOSOLIDS**

This Amendment No. 4 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by order of and through its Board of Public Works (hereinafter referred to as "CITY") and RESPONSIBLE BIOSOLIDS MANAGEMENT, INC. (hereinafter referred to as "RBM"); is set forth as follows:

**WITNESSETH**

WHEREAS, CITY currently produces approximately 665 wet tons per day of Class A "Exceptional Quality" (Class A "EQ") BIOSOLIDS at Hyperion Treatment Plant (HTP) and Terminal Island Water Reclamation Plant (TIWRP); and

WHEREAS, CITY's BIOSOLIDS meet U.S. Environmental Protection Agency's regulations and state guidelines for composting and land application; and

WHEREAS, CITY's BIOSOLIDS are known to contain nitrogen and other nutrients making it a highly desirable soil amendment; and

WHEREAS, CITY owns the Green Acres Farm (FARM), described as the 4,688 acres of land adjacent to Interstate 5 just south of Taft Highway in Bakersfield, California; and

WHEREAS, RBM and the CITY have agreed through the term of this Agreement that RBM shall have the exclusive right to deliver and apply BIOSOLIDS to the FARM; and

WHEREAS, CITY and RBM entered into an Agreement (Contract C-94375) for BIOSOLIDS loading, transporting and beneficial use activities on October 28, 1996; and

WHEREAS, RBM's original contract was amended on October 29, 1999 to renew the contract for three (3) years with an additional three-year renewal option; and

WHEREAS, Contract C-94375 with RBM was amended again on September 19, 2000 to extend the contract term for ten (10) years; and

WHEREAS, RBM assisted the CITY in the purchase of the FARM property on February 21, 2000; and

WHEREAS, in a letter, dated August 28, 2009, RBM gave the CITY notice to exercise their option to extend the use of the COMPOSTING SITE for one successive ten-year period commencing on the expiration date of Amendment no. 2; and

WHEREAS, RBM has been actively participating in the legal challenge to block Kern County's ban on Class "B" land application; and

WHEREAS, RBM willingly participated in the legal challenge to block and overturn Measure "E" prior to its passage in Kern County in 2006 and has vigorously participated in the ongoing legal challenge to overturn Measure "E"; and

WHEREAS, RBM has lobbied against efforts in Sacramento to alter existing law that would allow Counties and Cities to ban land application of BIOSOLIDS at their sole discretion; and

WHEREAS, RBM has identified and developed a strategy to realize value of a large water asset at the FARM; and

WHEREAS, RBM's original contract was amended a third time, on November 15, 2011, to extend the contract term for three (3) years with an additional one (1)-year renewal option; and

WHEREAS, RBM has successfully and continuously land-applied BIOSOLIDS as soil fertilizer/amendment to grow agricultural products at the FARM from 1996 to present; and

WHEREAS, the CITY has a continued need for BIOSOLIDS transporting services; and

WHEREAS, RBM has provided satisfactory service to the CITY thus far and has complied with all federal, state, and local regulatory and contractual requirements; and

WHEREAS, this AGREEMENT is for five (5) years with a one (1) 3-year renewal option, and the total ceiling cost for this entire AGREEMENT is approximately \$179,569,000; and

WHEREAS, the CITY desires to retain RBM to provide the required loading, transporting and beneficial use of the CITY's BIOSOLIDS.

NOW, THEREFORE, in consideration of the promises, covenants and agreements hereinafter set forth, the parties hereby agree as follows:

ARTICLE 1 – CONSTRUCTIONS OF PROVISIONS AND TITLES HEREIN

No change in this Article.

ARTICLE 2 – DEFINITIONS

No change in this Article.

ARTICLE 3 – PROJECT DESCRIPTION

No change in this Article.

ARTICLE 4 – RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY RBM

No change in this Article.

ARTICLE 5 – RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY

No change in this Article.

ARTICLE 6 – SUSPENSION AND TERMINATION

Add Sub-article 6.7 to read as follows:

Termination by cause of Passage of “Measure E” or other regulation prohibiting biosolids application at the FARM. Without financial liability, the CITY has the option to terminate this Agreement.

ARTICLE 7 – SUBCONTRACTORS

No change in this Article.

ARTICLE 8 – COMPENSATION, INVOICING AND PAYMENT

Modify Subarticle 8.2 to read as follows:

8.2 RBM agrees that the cost to the CITY for loading, transporting, and beneficial use of BIOSOLIDS shall be based on the average bimonthly tonnage, which is determined by the bimonthly total tonnage divided by the number of days of the pay period. The November 2013 cost is as follows:

Table A: Hauling and Tipping Fee from HTP to FARM

WTPD	\$/wt	WTPD	\$/wt
300	\$42.81	475	\$36.70
325	\$41.94	500	\$35.82
350	\$41.06	525	\$34.96
375	\$40.19	550	\$34.09
400	\$39.33	575	\$33.21
425	\$38.45	600	\$32.34
450	\$37.58	625	\$31.47

\*wt = wet ton

The cost for transporting BIOSOLIDS from TIWRP to the FARM will be the same as from HTP plus an additional \$5.13 per wet ton.

For any bi-monthly billing period that does not meet the minimum average daily tonnage of 300 WTPD going to the FARM, the price is \$51.25 per ton. This applies only to a temporary reduction of less than the 300 WTPD minimum for a period of 30 days or less and not more often than one billing period in any calendar year unless the loss of BIOSOLIDS production is beyond the CITY’s control.

During any bi-monthly billing period that CITY uses RBM for biosolids loading and hauling as described in Article 8.2.3, in amount exceeding 50 WTPD, the CITY shall be billed at the next lowest \$/wt for all loads processed at the FARM by RBM.

The above rates for hauling and land application shall be adjusted on November 15, 2014 for the first year of this amendment based on the Consumer Price Index (CPI-U) with a cap of 5% each year. After the first year of this amendment, the rates will be adjusted yearly for the succeeding anniversary date (November 15), which will reflect the cumulative changes in the CPI-U.

8.2.1 No change to this Subarticle

8.2.2 No change to this Subarticle.

8.2.3 No change to this Subarticle.

Modify Subarticle 8.2.4 to read as follows:

8.2.4 CITY pays RBM for services rendered under Section 4.3.2 as follows:  
From 0 to 99 Miles \$87.12 per hour  
Over 100 Miles \$4.01 per mile plus the fuel surcharge shown in 8.5.3.

Mileage (for computation) is determined as the distance from the respective wastewater treatment plant, (either HTP or TIWRP), to the designated site, one way.

These hauling rates shall be adjusted on November 15, 2014 for the first year of this amendment based on the Consumer Price Index (CPI-U) with a cap of 5% each year. After the first year of this amendment, the rates will be adjusted yearly for the succeeding anniversary date (November 15), which will reflect the cumulative changes in the CPI-U.

Modify Subarticle 8.2.5 to read as follows:

8.2.5 RBM agrees that the cost of the CITY, as specified in 8.2 and 8.2.1 is increased by \$2.66 per ton during periods of inclement weather if the trucks hauling the CITY's BIOSOLIDS must be towed into or out of the fields on the FARM or OTHER SITES.

This rate shall be adjusted on November 15, 2014 for the first year of this amendment based on the Consumer Price Index (CPI-U) with a cap of 5% each year. After the first year of this amendment, the rates will be adjusted yearly for the succeeding anniversary date (November 15), which will reflect the cumulative changes in the CPI-U.

Modify Subarticle 8.2.6 to read as follows:

- 8.2.6 For any bi-monthly billing period that does not meet the minimum average daily tonnage of 300 WTPD going to the FARM, the price will be \$51.25 per ton. This applies only to a temporary reduction of less than 300 WTPD minimum for a period of 30 days or less and not more often than one billing period in any calendar year unless the loss of biosolids production is beyond the CITY's control. The minimum average daily tonnage of 300 WTPD will only apply to the FARM, not to OTHER SITES.

This rate shall be adjusted on November 15, 2014 for the first year of this amendment based on the Consumer Price Index (CPI-U) with a cap of 5% each year. After the first year of this amendment, the rates will be adjusted yearly for the succeeding anniversary date (November 15), which will reflect the cumulative changes in the CPI-U.

#### 8.4 ADJUSTMENT TO PAYMENT

Modify Subarticle 8.4.3 to read as follows:

- 8.4.3 The cost-per-ton specified in Sections 8.2 through 8.2.5 of this Article shall be adjusted on November 15, 2014 for the first year of this amendment based on the Consumer Price Index (CPI-U) with a cap of 5% each year, and on each or any anniversary of the contract execution date (November 15), to reflect the cumulative changes in the Consumer Price Index (CPI-U).

The cost-per-ton specified in Sections 8.2 through 8.2.5 of this Article will be calculated as specified herein subject to the CITY's discretion under 8.4.1 and 8.4.2. The CPI-U will be the value published by the Bureau of Labor Statistics, U.S. of the Los Angeles-Riverside-Orange County area. The CPI currently listed at <http://www.bls.gov/ro9/pachist.htm>.

On each anniversary, the cost-per-ton specified in 8.2 through 8.2.5 shall be adjusted in accordance with the inflation factor as follows:

$$IN = [(CPI-U1) / (CPI-UB)]$$

Where:

- IN = the annual inflation factor  
CPI-U1 = the published CPI-U as of the adjustment date  
CPI-UB = the published CPI-U as of the Amendment's execution date

Modify Subarticle 8.8 to read as follows:

8.8 The cost ceiling for all the fees and services identified in the Agreement, Amendment No. 1, Amendment No.2, Amendment No. 3 and Amendment No. 4 is \$179,569,000.

ARTICLE 9 – CHANGES OR MODIFICATIONS

No change in this Article.

ARTICLE 10 – INSURANCE AND BONDS

No change in this Article.

ARTICLE 11 – INDEMNIFICATION

No change to this Article.

ARTICLE 12 – INDEPENDENT CONTRACTORS

No change in this Article.

ARTICLE 13 – WARRANTY AND RESPONSIBILITY OF RBM

No change in this Article.

ARTICLE 14 – NON-DISCRIMINATION, EQUAL EMPLOYMENT PRACTICES AND AFFIRMATIVE ACTION PROGRAM

No change in this Article.

ARTICLE 15 – MINORITY AND WOMEN BUSINESS OUTREACH PROGRAM

No change to this Article.

ARTICLE 16 – PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

No change in this Article.

ARTICLE 17 – CONTRACT PERSONS – PROPER ADDRESSES – NOTIFICATION

No change in this Article.

ARTICLE 18 – TERM OF AGREEMENT

Modify this Article to read as follows:

This AGREEMENT shall be for one (1) term of five (5) years with one (1), three-year renewal option, to be exercised at the CITY's sole discretion. The AGREEMENT shall be effective on November 15, 2014 or upon execution of by all parties hereto, whichever is later.

ARTICLE 19 – FORCE MAJEURE

No change in this Article.

ARTICLE 20 – TIME OF EFFECTIVENESS

No change in this Article.

ARTICLE 21 – DISPUTE

No change in this Article.

ARTICLE 22 – INTEGRATED AGREEMENT

No change in this Article.

ARTICLE 23 – APPLICABLE LAW, INTERPRETATION, ENFORCEMENT AND SEVERABILITY; SUCCESSORS AND ASSIGNS

No change in this Article.

ARTICLE 24 – CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE

No change in this Article.

ARTICLE 25 – TECHNICAL REVIEW AND ADVICE COMMITTEE

No change in this Article.

ARTICLE 26 – PROTECTION OF TRADE NAME PRODUCTS

No change in this Article.

ARTICLE 27 – CLAIMS FOR LABOR AND MATERIALS

No change in this Article.

ARTICLE 28 – CHILD SUPPORT ASSIGNMENT ORDERS

No change in this Article.

ARTICLE 29 – LIVING WAGE ORDINANCE (LWO)/SERVICE CONTRACT WORKER  
RETENTION ORDINANCE (SCWRO)

No change in this Article.

(DELETE) ARTICLE 30 – BURMA (MYANMAR) POLICY

ARTICLE 31 – EQUAL BENEFITS ORDINANCE

No change in this Article.

ARTICLE 32 - CONTRACTOR RESPONSIBILITY ORDINANCE

No change in this Article.

ARTICLE 33 - BREACH

No change in this Article.

ARTICLE 34 - DISCOUNT TERMS

No change in this Article.

ARTICLE 35 - MUNICIPAL LOBBYING ORDINANCE

No change in this Article.

ARTICLE 36 - SLAVERY DISCLOSURE ORDINANCE

No change in this Article.

ARTICLE 37 – CONTRACTOR PERFORMANCE EVALUATION ORDINANCE

No change in this Article.

ARTICLE 38 - KEY CONTRACTOR PERSONNEL

No change in this Article.

ARTICLE 39 – WAIVER

No change in this Article.

ARTICLE 40 – AMERICANS WITH DISABILITIES ACT

No change in this Article.

ARTICLE 41 – ENTIRE CONTRACT

No change in this Article.

ARTICLE 42 – PERMITS

No change in this Article.

ARTICLE 43 – MAINTENANCE OF RECORDS

No change in this Article.

ARTICLE 44 – FALSE CLAIMS ACT

No change in this Article.

ARTICLE 45 - FIRST SOURCE HIRING ORDINANCE

No change in this Article.

(Add) ARTICLE 46 - COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12) FOR MEASURE H/CONTRACTOR CONTRIBUTIONS/FUNDRAISING

The Contractor, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected CITY officials or candidates for elected CITY office if the contract is valued at \$100,000 or more and requires approval of a CITY elected official. Additionally, RBM is required to provide and update certain information to the CITY as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this Contract:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract # \_\_\_\_\_. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to contractor names and addresses of the subcontractor's principals and contact information and shall update that

information if it changes during the 12 month time period. Subcontractor's information included must be provided to contractor within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies includes fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

Contractor, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the CITY to terminate this AGREEMENT and pursue any and all legal remedies that may be available.

(Add) ARTICLE 47 - IRAN CONTRACTING ACT OF 2010

In accordance with California Public Contract Code Sections 2200-2208, all bidders submitting proposals for, entering into, or renewing contracts with the City of Los Angeles for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit"

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in quadruplicate, and this AGREEMENT is executed by the City of Los Angeles, acting by and through its Board of Public Works, and by RBM.

FOR THE CITY OF LOS ANGELES  
APPROVED AND AGREED TO:

FOR RBM  
APPROVED AND AGREED TO:

BY \_\_\_\_\_  
Board of Public Works

BY \_\_\_\_\_  
Board of Public Works

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
MIKE FEUER, City Attorney

BY \_\_\_\_\_  
JOHN A. CARVALHO  
Deputy City Attorney

Date: \_\_\_\_\_

BY \_\_\_\_\_  
JON COFFIN, President  
Responsible Biosolids Management, Inc

Date: \_\_\_\_\_

ATTEST:

JUNE LAGMAY, City Clerk

BY \_\_\_\_\_  
Deputy City Clerk

Date: \_\_\_\_\_

**Attachment 1**  
**EMS REQUIREMENTS FOR BIOSOLIDS CONTRACTORS**

EMS element #	Contractor Requirement	Procedures or documents required
2	Copies of City's BIOSOLIDS Policy Statement	
4	Copies of all legal and other requirements <ul style="list-style-type: none"> <li>▪ Part 503 requirements</li> <li>▪ State and Regional Boards General Order requirements</li> <li>▪ Contract AGREEMENT requirements with City of Los Angeles</li> <li>▪ CWEA Manual of Good Practice Requirements for Land Application of BIOSOLIDS</li> </ul>	Permits, General Order Permits, County permits, contract AGREEMENTs with farmers, City's contract AGREEMENTs for hauling, and land application
5	<ul style="list-style-type: none"> <li>▪ Copies of City's goals and objectives for the BIOSOLIDS program</li> <li>▪ Contractor's goals and objectives for land application site</li> </ul>	<ul style="list-style-type: none"> <li>▪ Farm management plan</li> <li>▪ Goals established by contractor for land application and farming sites</li> </ul>
6	<ul style="list-style-type: none"> <li>▪ Copy of the City's public participation program and plan</li> <li>▪ Contractor's public participation program and plan</li> </ul>	<ul style="list-style-type: none"> <li>▪ Copies of contractors brochures and flyers</li> <li>▪ Statement from contractor concerning public relations, which should include contact person and their number</li> </ul>
7	Organizational chart from contractor, identifying roles and responsibilities from hauling to land application to farming	<ul style="list-style-type: none"> <li>▪ Contractor structure, which includes roles and responsibilities for hauling, land application and farming</li> </ul>
8	Training program that addresses the requirements of the EMS	Contractor needs to develop a training program for the EMS and provide schedule to implement training for necessary personnel
9	Identify the contractor roles and responsibilities in the communication program	Develop a plan that addresses communication levels, from the contractor to City, city to contractor, and contractor to public
10	Verify that contractor has procedures that address the items listed: <ul style="list-style-type: none"> <li>▪ Truck loading procedures</li> <li>▪ Land application procedures</li> <li>▪ Site inspection procedures</li> <li>▪ Monitoring procedures</li> <li>▪ Communication procedures (included in element 9)</li> <li>▪ Permitting procedures and protocol</li> </ul>	Obtain copies of all the procedures from the contractor. If procedures do not exist, have procedures developed

11	Copies of emergency preparedness and response procedures which include spill response, natural disasters, wet weather, etc.	Obtain copies from contractor. If procedures do not exist, have procedures developed
12	Obtain copies of all documents supporting the EMS and place on internal communication database	Identify documents that contractor have supporting EMS and develop a procedure to have contractor submit current and revised documents to City's EMS internal communication database
13	Obtain documents and procedures supporting monitoring and measurement results for legal and other requirements	See comments under element 4
15	Obtain an annual summary of BIOSOLIDS operations from contractor	Annual reports required for legal and other requirements
16	Statement concerning participation in the internal and third party audits. Develop action plan if non-conformances are identified.	Review documents, conduct site visits, interview staff, and address non-conformances identified.