

**CITY OF SAN MATEO, CALIFORNIA
WASTEWATER BIOSOLIDS HAULING AND DISPOSAL
JULY 1, 2022 TO JUNE 30, 2025**

**AGREEMENT FOR SERVICES
CITY OF SAN MATEO**

CITY COUNCIL AWARD

THIS AGREEMENT, made and entered into this day of _____, by and

between the **CITY OF SAN MATEO**, a municipal corporation existing under the laws of the State of California, hereinafter referred to as "CITY", and Synagro-WWT, Inc., a Corporation with offices at 435 Williams Court, Suite 100, Baltimore, MD 21220 hereinafter referred to as "CONTRACTOR".

RECITALS:

(a) City has taken appropriate proceedings to authorize services or other matters herein provided, and execution of this contract.

(b) A notice was duly published for bids for the contract for the improvement hereinafter described.

(c) After notice duly given, on the date hereof, the City awarded the contract for the services hereinafter described to Contractor.

IT IS AGREED, as follows:

1. Scope of Work. Contractor shall perform the work according to the Contract Book therefore entitled:

Wastewater Biosolids Hauling and Disposal, July 1, 2022 to June 30, 2025

2. Contract Price. City shall pay, the Contractor shall accept, in full payment for the work above agreed to be done for the not-to-exceed sum of \$1,824,250.

Said price is determined by the prices contained in Contractor's bid, and shall be paid as described in the Contract Book. In the event work is performed or materials furnished in addition to or a reduction of those set forth in Contractor's bid and the specifications herein, such work and materials will be paid for as described in the Contract Book.

3. The Contract Documents. The complete contract consists of the following documents: This Agreement; the Notice Inviting Sealed Proposals; the Accepted Proposal; the Contract Book which includes the Special Provisions, Addendums Number issued to the Contract Book,

All rights and obligations of City and Contractor are fully set forth and described in the contract documents.

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All of the above-named documents are intended to cooperate, so that any work called for in one, and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract will hereinafter be referred to as "the contract documents." In the event of any variation or discrepancy between any portion of this agreement and any portion of the other contract documents, this agreement shall prevail. The precedence of the remaining contract documents will be as specified in the Contract Book.

4. Schedule. All work shall be performed in accordance with the schedule provided pursuant to the Contract Book.

5. RESERVED

6. Duties of the City. City shall provide pertinent information regarding its requirements for the project. City shall examine documents submitted by Contractor and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of Contractor's work.

7. Ownership of Documents. All documents prepared by Contractor in the performance of this Agreement are and shall be the property of the City, whether the project for which they are made is executed or not.

8. Confidentiality. All reports and documents prepared by Contractor in connection with the performance of this Agreement are confidential until released by City to the public. Contractor shall not make any such documents or information available to any individual or organization not employed by Contractor or City without the written consent of City before any such release.

9. Interest of Contractor. Contractor covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services under this Agreement.

10. Contractor's Status. It is expressly agreed that in the performance of the services required under this Agreement, Contractor shall at all times be considered an independent contractor as defined in Labor Code Section 3353, under control of the City as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make Contractor an agent or employee of City while providing services under this Agreement.

11. Waivers. The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance, or law. The subsequent acceptance by either party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

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12. Non-Discrimination. Contractor warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither Contractor nor any of its subcontractors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

13. Performance by Sureties. Without limitation to such rights or remedies as City shall otherwise have by law, City shall have the right to terminate this Agreement or suspend work on the Project for any reason, upon ten (10) days' written notice to Contractor. Contractor agrees to cease all work under this Agreement upon receipt of said written notice. In the event of any termination as hereinbefore provided, the City shall immediately give written notice thereof to Contractor and Contractor's sureties, and the sureties shall have the right to take over and perform the agreement, provided, however, that if the sureties, within 5 days after giving them said notice of termination, do not give the City written notice of their intention to take over the performance thereof within 5 days after notice to City of such election, the City may take over the work and prosecute the same to completion, by contract or by any other method it may deem advisable, for the account, and at the expense of Contractor, and the sureties shall be liable to City for any excess cost or damages occasioned City thereby; and, in such event, City may, without liability for so doing, take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

14. Legal Work Day - Penalties for Violation. Eight hours of labor shall constitute a legal day's work. Contractor shall not require more than 8 hours' labor in a day and 40 hours in a calendar week from any person employed by Contractor in the performance of such work unless such excess work is compensated for at not less than 1-1/2 times the basic rate of pay. Contractor shall forfeit as a penalty to City the sum of \$25.00 for each laborer, workman or mechanic employed in the execution of this contract by Contractor, or by any subcontractor for each calendar day during which such laborer, workman or mechanic is required or permitted to labor more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Sections 1810 and 1816, inclusive, of the Labor Code of the State of California.

15. Prevailing Wage Scale. In general, the prevailing wage scale, as determined by the Director of Industrial Relations of the State of California, in force on the day this bid was announced, or as determined by the Administrator or the Wage and Hour Division, U.S. Department of Labor, in force on the day bids are opened, whichever is higher, will be the minimum paid to all craftsmen and laborers working on this project.

In cases where the State prevailing wage determinations have a single asterisk (*) after the expiration date which are in effect on the date of advertisement for bids, such determinations remain in effect for the life of the project. Prevailing wage determinations which have double asterisks (**) after the expiration date indicate that the basic hourly wage rate, overtime, and holiday pay rates, and employer payments to be paid for work performed after this date have been predetermined. If work is extended past this date, the new rate must be paid and should be incorporated in contracts the Contractor enters into.

Any contractor awarded a public works project who intends to use a craft or classification not shown on the general prevailing wage determinations will be required to pay the wage rate of that craft or classification most closely related to it as shown in the general determinations effective at the time the bids are opened. Attention is directed to Section SP-7-2.3.6, Federal Labor Standards Provisions.

A copy of the correct determination will be posted at the job site. It is understood that it is the responsibility of the bidder to determine the correct scale. The City will keep a copy of the wage scale in

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the City Clerk's office for the convenience of bidders. Any errors or defects in the materials in the City Clerk's office will not excuse a bidder's failure to comply with the actual scale then in force.

16. **Insurance.** Contractor shall procure and maintain for the duration of the contract the insurance as specified in this section of the Agreement. Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. Contractor's Pollution Legal Liability and/or Abestos Legal Liability and or Errors and Imissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents are to be covered as insureds on the auto policy for liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Contractor's insurance coverage shall be primary** insurance as respects The City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by the City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents shall be excess of the Contractor's insurance and shall not contribute with it.

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Notice of Cancellation

Each insurance policy required above shall provide that **coverage shall not be canceled, except after thirty (30) days' prior written notice** (10 days for non-payment) has been given to the City.

Waiver of Subrogation

Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

17. **Hold Harmless and Indemnity Provision.** Contractor agrees to hold harmless and indemnify The City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of Contractor's performance of this Agreement, including claims, loss, liability, damage, and expense caused or claimed to be caused by passive negligence of The City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents provided, however that this provision does not apply to claims, loss, liability, damage or expense arising from (a) the sole negligence or willful misconduct of City of San Mateo or (b) the active negligence of City of San Mateo; further provided, that this provision shall not affect the validity of any insurance contract, workers compensation or agreement issued by an admitted insurer as defined by the Insurance Code. Contractor agrees to defend The City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents against any such claims.

18. **Attorney Fees.** Attorney fees in amount not exceeding \$85 per hour per attorney, and in total amount not exceeding \$5,000 shall be recoverable as costs (that is, by the filing of a cost bill) by prevailing party in any action or actions to enforce the provisions of this contract. The above \$5,000 limit is the total of attorney fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals or actions. It is the intent that neither party to this contract shall have to pay the other more than \$5,000 for attorney fees arising out of an action, or actions,

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to enforce the provisions of this contract. The parties expect and hope there will be no litigation and that any differences will be resolved amicably.

19. Mediation. Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a blind draw.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.

20. Litigation. Contractor shall testify at City's request if litigation is brought against City in connection with Contractor's services under this Agreement. Unless the action is brought by Contractor, or is based upon Contractor's wrongdoing, City shall compensate Contractor for preparation for testimony, testimony, and travel at Contractor's standard hourly rates at the time of actual testimony.

21. Provisions Cumulative. The provisions of this agreement are cumulative, and in addition to and not in limitation of, any other rights or remedies available to City.

22. Notices. All notices shall be in writing, and delivered in person or transmitted by certified mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

Mike Sutter
Operations Superintendent
Department of Public Works
City of San Mateo
2050 Detroit Drive
San Mateo, CA 94404

Notices required to be given to Contractor shall be addressed as appears in the signature block as shown on the Bidder's Statement.

23. Interpretation. As used herein any gender includes each other gender, the singular includes the plural and vice versa.

24. Agreement Contains All Understandings; Amendment. This document represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral. This document may be amended only by written instrument, signed by both City and Contractor.

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25. Governing Law and Venue. This Agreement shall be governed by the laws of the State of California and, in the event of litigation, venue will be in the County of San Mateo.

IN WITNESS WHEREOF, this agreement has been duly executed by the parties hereinabove named, as of the day and year first above written.

CONTRACTOR

CITY OF SAN MATEO, a
municipal corporation

By: Emil Kneis, Contracts Manager

Azalea Mitch, P.E., Public Works Director

APPROVED AS TO FORM

Linh Nguyen, Assistant City Attorney

October 20, 2021

Delegation of Authority

FROM: Matt Robertson, Chief Commercial Officer

TO: Emil Kneis, Sales Support Manager

In consideration of the continued closing of our corporate office in response to the COVID-19 pandemic and in anticipation of continued disruption in normal company procedures, I, Matt Robertson as Chief Commercial Officer of Synagro Technologies, Inc. and all its affiliates and subsidiaries, hereby delegate to you, Emil Kneis, authority to sign binding bids and awarded contracts as an officer or as an authorized person. Also, I delegate to you the authority to sign as an officer or authorized person on any business-related application and other agreements as necessary to provide uninterrupted service to current and new customers. Such authority does not alter our internal approval processes. This delegation of authority is valid from the date of this letter until revoked by me.



Matt Robertson

Chief Commercial Officer

Date 11/1/2021



May 9, 2022

Delegation of Authority

FROM: Emil Kneis, Sales Support Manager/ Contracts Manager

TO: John Pugliaresi/ Area Sales Manager

In consideration of the continued closing of our corporate office in response to the COVID-19 pandemic and in anticipation of continued disruption in normal company procedures, I, Emil Kneis as a Delegated Authority of Synagro Technologies, Inc. and all of its affiliates and subsidiaries, hereby delegate to you, John Pugliaresi, authority to sign this bid and related documents for the City of San Mateo, CA Solicitation for Facultative Wastewater Biosolids Hauling and Disposal. Such authority does not alter our internal approval processes. This delegation of authority applies only to this project for the City of San Mateo, CA.



Emil Kneis

Contracts Manager

Date: May 9, 2022