

PEACE RIVER MANASOTA REGIONAL WATER SUPPLY AUTHORITY
BOARD OF DIRECTORS MEETING
June 1, 2022

CONSENT AGENDA
ITEM 4

Award Contract for Sludge Loading and Hauling Services

Recommended Action -

Motion to approve and authorize Executive Director to execute Contract for Sludge Loading and Hauling Services to the lowest responsible and responsive bidder, D.M. Construction Corp.

Bids were requested for the sludge loading and hauling of dewatered sludge from the Peace River Facility in accordance with the Authority's Procurement Policy. Two bids were timely received, and opened on May 11, 2022. Staff recommends award of the Contract for Sludge Loading and Hauling Services to the recommended lowest responsible and responsive bidder, D.M. Construction Corp., in the amount of \$10.50 per ton. This represents a \$2.75/ton increase over our current vendor price of \$7.75 which has been in effect since 2019.

Funds for these purchases are available in the FY 2022 budget.

Budget Action: No action needed.

Attachments

Tab A Notice of Award & Bid Tabulation

Tab B Sample Contract

TAB A
Notice of Award & Bid Tabulation

**NOTICE OF INTENDED DECISION FOR AWARD OF PURCHASE CONTRACT -
PEACE RIVER MANASOTA REGIONAL WATER SUPPLY AUTHORITY
SLUDGE LOADING AND HAULING SERVICES**

Recommended Action - Award purchase contract for Sludge Loading and Hauling Services to the lowest responsible and responsive bidder, D.M. Construction Corp.

Sludge loading and hauling services were bid in accordance with the Authority's Procurement Policy. Bids were received and opened on May 11, 2022.

Staff recommends the Authority Board of Directors award contract to the lowest responsible and responsive bidder as listed below at the Authority Board meeting on June 1, 2022. Bid tabulation is attached.

Company Name	Bid Amount
D.M. Construction Corp	\$10.50 per ton
Merrell Bros., Inc,	\$20.50 per ton

Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

Posted: May 11, 2022



Peace River Manasota

Regional Water Supply Authority

INVITATION TO BID Sludge Loading and Hauling Services

Bid Opening
May 11, 2021 @ 10:00 AM
9415 Town Center Pkwy, Lakewood Ranch, FL 34202

BID TABULATION SHEET

Company Name	Total Bid Amount	Time Bid Opened
Merrell Brothers	\$ 20.42/ton	10:00 am
DM construction	\$ 10.50/ton	10:01 am

Bid Opened By: Ann Lee
Name
Finance & Budget SR Mgr
Title

[Signature]
Signature

Witnessed By: Rachel Kersten
Name
Agency clerk
Title

Rachel Kersten
Signature

TAB B
Sludge Hauling Contract

Contract for Sludge Loading and Hauling Services

This Contract ("Contract") is made and entered into this _____ day of _____, 2022 by and between Peace River Manasota Regional Water Supply Authority ("Owner"), 9415 Town Center Parkway, Lakewood Ranch, Florida, 34202 and _____ ("Contractor"), whose address is _____ for sludge loading and hauling services that will be conducted at the Owner's Peace River Water Supply Facility on SW County Road 769, Arcadia Florida 34269 (the "Site").

In consideration of the mutual promises and agreements set forth below, the parties agree as follows:

1. **Exhibits.** The exhibits listed below are attached to and are part of this Contract.

Exhibit A – All responses submitted by Contractor in response to the 2022 Sludge Hauling and Loading Services Invitation to Bid including Contractor's Bid Form
Exhibit B – Invitation to Bid
Exhibit C – Instructions to Bidders
Exhibit D – Technical Specifications & Conditions

2. **Scope of Work.** Contractor shall remove dewatered sludge from the Site, haul, and deliver it to the Charlotte County Landfill ("Landfill") as described in **Exhibit D** in accordance with the terms and conditions of this Contract ("Work"). Owner will pay Contractor on a unit cost basis for the tonnage loaded and delivered to the Landfill. The official weigh station tickets from the landfill will be the basis for payment. Contractor shall provide and pay for all labor, materials, tools, equipment, and supervision necessary for and incidental to the proper execution and completion of the Work.

3. **Commencement.** Contractor shall start performing the Work upon the execution of this Contract by both parties (the "Effective Date"). Owner will not pay for Work done or costs incurred before the Effective Date.

4. **Term.** This Contract will remain in effect through May 31, 2023, unless amended in writing by the parties. This Contract may be renewed in writing under the same terms and conditions for two additional one-year terms.

5. **Contract Price.** Owner shall pay Contractor for performance of the Work at a unit cost of \$_____ per ton ("Contract Price"). There is no fuel escalation adjustment provision; the Contract Price is firm for the duration of the Contract.

6. **Payments to Contractor.** Owner will pay Contractor upon receipt of an invoice with adequate supporting documentation to satisfy auditing purposes. Owner will pay Contractor in accordance with Florida's Prompt Payment Act, set forth in Part VII of Chapter 218, Florida Statutes. Contractor shall submit invoices to the Owner monthly at the following address or via email at ap@regionalwater.org:

Peace River Manasota Regional Water Supply Authority
Attention: Accounts Payable
9415 Town Center Parkway
Lakewood Ranch, Florida 34202

7. **Invoice Requirements.** All invoices must include the following information: (1) Contractor's name, address, and phone number (include remit address, if different than principal address in the introductory paragraph of this Contract); (2) Contractor's invoice number and date of invoice; (3) Dates of service; (4) Copies of Charlotte County Landfill weigh station tickets; and (5) Supporting documentation necessary to satisfy auditing purposes for cost and Work completion. Invoices that do not conform to this paragraph and other requirements of this Contract will not be considered a proper invoice. Owner will not provide compensation for any missing weigh station ticket. It is Contractor's responsibility to present an invoice package that is whole and complete. Charlotte County bills tipping fees directly to Owner; therefore, Contractor must not include disposal costs or disposal fees in any invoice.
8. **Deficient Invoices.** If an invoice does not meet the requirements of this Contract, the Owner will reject the invoice in writing within 20 business days after receipt of the invoice, specifying the deficiency and the action necessary to make the invoice proper. If a corrected invoice is provided to the Owner, the corrected invoice will be paid or rejected within 10 business days after the date the corrected invoice is stamped as received by the Owner. If the Contractor declines to modify the invoice, the Contractor must notify the Owner in writing within five business days of receipt of notice of rejection that the Contractor will not modify the invoice and state the reason(s) therefore. Within five business days of receipt of such notice, if not informally resolved through discussion with the Owner, the dispute will be forwarded to the Owner's Executive Director, and a final determination will be issued by the Owner in accordance with paragraph 4.3.
9. **Continued Performance.** In the event any dispute or disagreement arises during the Contract, the Contractor shall continue to fully perform its obligations in accordance with the Contract. The Contractor shall seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request to the Authority's Executive Director, or appointed designee no later than 10 days after the precipitating event. The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options. Contractor shall not delay or postpone performance or delivery of goods pending resolution of any disputes or disagreements.
10. **Final Invoice.** Contractor shall submit the final invoice no later than 45 days after all Work is completed. Final invoices that are submitted after that date will be subject to a penalty of 10% of the invoice. If Contractor wishes to request approval for delayed submittal of the final invoice Contractor must do so no later than 10 days before the due date and must state the basis for the delay. Owner will not waive the 10% penalty if Contractor's request is not timely. If Contractor timely submits its request, Owner, in its sole discretion may waive the 10% penalty upon a showing of special circumstances that prevent the timely submittal of the final invoice.
11. **Changes in the Work.** Owner may, without invalidating this Contract, order changes in the Work consisting of additions, deletions, or modifications. Owner will not compensate

Contractor or extend any time requirement or deadline concerning the Work unless the change is authorized by a written change order signed by Owner. The additional compensation or extension of deadlines agreed upon in a written change order constitutes an accord and satisfaction of all claims by the Contractor relating to the subject matter of the change order.

12. **Contractor's Responsibilities.**

- 12.1. **Performance of the Work.** Contractor shall perform the Work upon the terms and conditions set forth in this Contract.
- 12.2. **Licenses.** Contractor shall hold and maintain all licenses that are required to perform the Work.
- 12.3. **Resources.** Contractor shall have sufficient equipment, personnel, and other resources to accomplish the Work.
- 12.4. **Site Knowledge.** Contractor has visited the Site and has become familiar with the Work and the local conditions under which the Work is to be performed.
- 12.5. **Attention.** Contractor shall supervise and direct the Work using Contractor's best skill and attention.
- 12.6. **Corrections.** Contractor shall promptly correct any Work rejected by Owner as falling to conform to the requirements of this Contract whether Owner observes it before or after completion of the Work.
- 12.7. **Site Conditions.** Contractor shall keep the premises and surrounding areas free from accumulation of waste materials and rubbish caused by operations under this Contract. Upon the completion of the Work, Contractor shall remove from and about the work site all waste materials, rubbish, Contractor's tools, construction equipment, machinery, and surplus materials. The only exception to this is that the Contractor will be allowed to store large earthmoving equipment onsite to minimize the costs associated with remobilizing such equipment with each hauling event. However, equipment being stored onsite must be the same equipment being used for the Work. Contractor is prohibited from using the Site or other Owner property as a storage lot for unused equipment.
- 12.8. **Scrutinized Companies.** Contractor complies with Section 287.135, Florida Statutes. As required by Subsection 287.135(5), Florida Statutes, Contractor certifies that it is not on any of the following lists: 1) Scrutinized Companies with Activities in Sudan, 2) Scrutinized Companies with Activities in the Iran Petroleum Energy Sector, or 3) Scrutinized Companies that Boycott Israel.
- 12.9. **Public Entity Crimes.** Contractor complies with Section 287.132, Florida Statutes and has provided the Authority with a Public Entity Crimes statement as required by Subsections 287.133(2) and (3), Florida Statutes and it is true and accurate on the Effective Date of this Contract.

- 12.10. **Discriminatory Vendor List.** Contractor complies with subsection 287.134(2)(a), Florida Statutes. Contractor is not on the discriminatory vendor list maintained by the Florida Department of Management Services under section 287.134, Florida Statutes
- 12.11. **E-Verify.** Contractor complies with Section 448.095, Florida Statutes. As required by Subsection 448.095(2)(a), Florida Statutes, Contractor has registered with and uses the E-Verify System to verify the work authorization status of all newly hired employees. The E-Verify Statement Contractor submitted with its response to the RFP remains true and correct.
- 12.12. **Compliance.** Contractor shall continuously comply with its responsibilities for the duration of the Contract. Contractor shall immediately notify the Authority if any of the statements or affidavits made by Contractor and provided to the Authority become inaccurate or outdated.
13. **Default And Termination.** If Contractor defaults or fails or neglects to carry out the Work in accordance with this Contract or otherwise fails to perform any provision of this Contract, Owner will provide verbal notice of the default to the Contractor and will use its best efforts to provide written notice. If Contractor fails to cure the default within 24 hours from the verbal notice, or as otherwise specified by the Owner, Owner has the right to:
- a. terminate the Contractor without further notice;
 - b. re-bid the Contract;
 - c. complete any of the remaining items of Work through any appropriate method and back charge Contractor for all costs incurred; and
 - d. exercise all other rights and remedies available at law or in equity.
14. **Time.** Time is of the essence in the performance of this Contract. Contractor confirms that it will provide the Work according to the timeframes set forth in this Contract which provide a reasonable time for Contractor's performance of the Work.
15. **Withholding Payments.** Owner may, in addition to other remedies available at law or equity, retain money from amounts due Contractor necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against Owner. Owner may set off any liability or other obligation of the Contractor or its affiliates to the Owner against any payments due the Contractor under any contract with the Owner. Payments to Contractor may be withheld on account of (i) defective Work not remedied; (ii) claims filed or asserted by any third parties; (iii) failure of Contractor to make payments due to subcontractors or for labor, materials, or equipment; (iv) damage to Owner's property; (v) evidence that the Work will not be completed in accordance with the Technical Specifications & Conditions and that the unpaid balance of the Contract Price will not be adequate to cover Owner's actual damages arising out of the anticipated delay; or (vi) failure to perform the Work In accordance with this Contract. Amounts withheld under this paragraph will not be considered due and will not be paid until the ground(s) for withholding payment have been remedied.

16. **Liability And Indemnification.** Contractor assumes all risks relating to the Work and agrees to be solely liable for, and to indemnify and hold the Owner harmless from all claims, loss, damage and other expenses, including attorney fees and costs and attorney fees and costs on appeal, arising from the Work; provided, however, that Contractor shall not indemnify for that portion of any loss or damages solely caused by the negligent act or omission of the Owner's officers, employees, contractors and agents. This Contract does not in any way constitute an agency relationship between the Owner and the Contractor. Nothing in this Contract shall be interpreted as a waiver of the Owner's sovereign immunity or an extension of its liability beyond the limits established in Section 768.28, Florida Statutes, nor be construed as consent by the Owner to be sued by third parties in any manner arising out of this Contract.
17. **Safety Precautions.** Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance under this Contract . Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to employees and other persons who may be affected thereby; the work and materials and equipment to be incorporated therein; and other property at the Site or adjacent thereto. Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the safety of persons and property and their protection from damage, injury, or loss. Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by Contractor, or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable and for which Contractor is responsible.
18. **Insurance.** Contractor shall maintain the following types of insurance from companies lawfully authorized to do business in the jurisdiction in which the Work is located through the term of this Contract, and any contract extensions. Contractor shall deliver these certificates of insurance to Owner upon execution of this Contract.
 - 18.1. **Workers' Compensation.** Contractor shall maintain insurance for protection from claims under workers' compensation acts or other applicable employee benefits acts, claims for damages because of bodily injury, including death, that may arise out of or result from Contractor's operations under this Contract, whether such operations be by Contractor or by anyone directly or indirectly employed by Contractor. Contractor shall maintain workers' compensation insurance for not less than \$300,000.
 - 18.2. **Contractual Liability.** Contractor shall maintain contractual liability insurance applicable to meet Contractor's obligations for indemnification for not less than \$1,000,000 and both certificates of insurance shall name Owner, it's officers, agents, and employees as additional insureds.
 - 18.3. **Comprehensive Automobile Liability.** Coverage must be afforded on a form no more restricted than the latest edition of the Comprehensive Automobile Liability Policy filed by the Florida Insurance Services Office and must include:
 - a. \$1,000,000 combined single limit per accident for bodily injury and property damage.

- b. Owned Vehicle.
- c. Hired and Non-Owned Vehicles.
- d. Employee Non-Ownership.
- e. Additional Insured. Owner, its officers, agents, and employees are to be specifically included as additional insureds.
- f. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide Owner with 30 days written notice of cancellation or restriction.

19. General Provisions

19.1. Compliance with Laws. Contractor, its employees, subcontractors, and agents, must comply with all applicable federal, state, and local laws and regulations relating to the performance of this Contract.

19.2. Applicable Law and Venue. Florida law applies to this Contract. Venue for any action under state law will be in the Twelfth Judicial Circuit of Florida. Claims justiciable in federal court will be in the Middle District of Florida.

19.3. Notices. All notices or other communications permitted or required under this Contract must be in writing and must be sent to the party at that party's address set forth below or a whatever other address the party specifies in writing. Notices must be personally delivered, sent by certified or registered mail, or sent by nationally recognized overnight courier, postage prepaid. Notice is effective upon receipt.

If to the Authority: Mike Coates, Executive Director
Peace River Manasota Regional Water Supply Authority
9415 Town Center Parkway
Lakewood Ranch, Florida 34202

If to the Contractor: _____

19.4. No Discrimination. Contractor and its agents will not discriminate against any person on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this Contract. Contractor will comply with all applicable rules, regulations, and orders promulgated to give effect to the Civil Rights Act of 1964, as amended.

19.5. No Third-Party Beneficiaries. This Contract is solely for the benefit of the parties. No person or entity other than the Contractor or the Authority shall have any rights or privileges under this Contract in any capacity whatsoever, either as third-party beneficiary or otherwise.

19.6. Assignment. Contractor will not assign this Contract without the Authority's consent and a written amendment to this Contract.

- 19.7. **Waiver.** No waiver of any term of this Contract constitutes a waiver of any other provision, whether similar or dissimilar. No waiver of any term constitutes a continuing waiver. No waiver is binding unless signed in writing by the waiving party.
- 19.8. **Severability.** If any term of this Contract is for any reason invalid or unenforceable, the rest of the Contract remains fully valid and enforceable.
- 19.9. **Entire Contract.** This Contract constitutes the entire agreement between the parties and supersedes any prior written or oral agreements or communications between the parties. No modification or amendment of this agreement will be binding unless it is in writing and signed by both parties.
- 19.10. **Interpretation.** Unless the context requires otherwise, the term "include" means "including but not limited to." All words in the singular include the plural, and the use of any gender extends to and includes all genders.
- 19.11. **Survival.** Any provision of this Contract which by its terms binds either party after the expiration or termination of this Contract will survive the expiration or termination of this Contract.
- 19.12. **Costs & Attorney Fees.** If there is any legal action between Owner and Contractor arising out of this Contract, the unsuccessful party shall pay to the prevailing party all costs and expenses, including reasonable attorney fees, incurred by the prevailing party including any appeals.
- 19.13. **Waiver of Jury Trial.** To the extent permitted by law, Contractor and the Authority irrevocably waive any right to trial by jury in any legal proceeding arising out of or relating to this Contract or any of the transactions contemplated by it.
- 19.14. **Public Records.** Each party shall allow public access to documents and materials made or received by either party in accordance with the Public Records Act, Chapter 119, Florida Statutes. The Contractor shall (1) keep and maintain public records that ordinarily would be required by the Authority in order to perform the service; (2) provide the public with access to public records on the same terms and conditions that the Authority would provide the records and at a cost that does not exceed the cost provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meet all requirements for retaining public records and transfer, at no cost to the Authority, all public records in possession of the Contractor upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records requirements. All records stored electronically must be provided to the Authority in a format that is compatible with the information technology systems of the Authority. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (941) 316-1776;**

**ALEE@REGIONALWATER.ORG; OR 9415 TOWN CENTER
PARKWAY, LAKEWOOD RANCH, FLORIDA 34202.**

The parties have caused their lawful representatives to execute this Contract as set forth below.

Witnesses:

Signature

Print name

Signature

Print name

Contractor:

Firm Name

Signature

Print name

Print title

Attest:

Signature

Print name

Print title

**Peace River Manasota
Regional Water Supply Authority:**

Signature

Print name

Print title

Approved as to Form:

Douglas Manson, General Counsel
for Peace River Manasota
Regional Water Supply Authority