



Addendum #2

Issued: June 14, 2019

This is Addendum #2 to the REQUEST FOR PROPOSALS FOR SOLID WASTE TRANSPORTATION AND DISPOSAL SERVICES for FREDERICK COUNTY, MARYLAND (Issued May 3, 2019).

The Proposal due date is 3:00 p.m. (local time) on Wednesday, July 3, 2019.

Below are responses from vendors' RFP questions and proposed exceptions to Service Agreement, received as of June 11, 2019.

1. Hazardous Waste. Please add to Section 2.5(b) of the contract: "Title to and liability for any Hazardous Waste shall at no time pass to the Company." Also, the first paragraph of Section 2.5 should be modified to state that the Company shall use commercially reasonable efforts to segregate and isolate the Hazardous Waste but shall have no obligation to handle such Hazardous Waste.

Response: *The last sentence in Section 2.5 (b) shall be revised as follows: "The Company shall use commercially reasonable efforts to segregate and isolate the Hazardous Waste at the Disposal Facility." There shall be no other changes to Section 2.5 (b). It should be noted that as long as the Company can substantiate chain of custody with documentation (e.g. hauling records), showing there has been no breach in control of the material from the Acceptance Facility to the Disposal Facility, then the Authority is responsible for the preparation, loading and disposal costs of the Hazardous Waste.*

2. Section 2.8. The typo in the third to last line of this section needs to be fixed so that it reads "subcontractors..."

Response: *Acceptable.*

3. Section 2.11. Please insert at the end of Section 2.11: "If the County or other funding source fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period or part thereof of this Agreement, this Agreement shall be cancelled automatically as of the beginning of the fiscal year or part thereof for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the County's rights or the Company's rights under any termination clause in this Agreement."

Response: *The following sentence shall be added to the end of Section 2.11: “If the County or other funding source fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period or part thereof of this Agreement, this Agreement, upon 90 days’ notice, shall be cancelled as of the beginning of the fiscal year or part thereof for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the County’s rights or the Company’s rights under any termination clause in this Agreement.”*

4. Article III. Please add the following to Section 3.8 after “Fiscal Year” in the second to last line and the last line: “pursuant to this Agreement.”

Response: *Acceptable.*

5. Insurance. Please make the following changes to the insurance provisions:

- In Section 5.2, make the following changes:
 - Change sixty days to thirty days in 5.2(a) and change the end of 5.2(a) that starts with “written notice of termination...” to “written notice of non-renewal, termination or material change of general and auto liability policies”.

Response: *Unacceptable.*

- Delete the second sentence in Section 5.2(c).

Response: *Unacceptable*

- On Schedule 5, please make the following changes:
 - Insert “Acord-form certificate of insurance” between Required and Insurance in the first box.

Response: *Unacceptable*

- On Schedule 6, please make the following changes:
 - Change “qualified” to “approved” in the second line

Response: *Acceptable*

- Add “, via blanket form endorsement” to the end of the first paragraph

Response: *Acceptable*

- Change “provide two Certificates of Insurance” in the second paragraph to “provide a certificate of insurance as follows:” and then delete subsection (a).

Response: *Acceptable*

- Delete the second “and Authority” in (a) [this appears to be a typo]

Response: *Acceptable*

- Delete “uninsured/underinsured motorists coverage in Section (c)

Response: *Unacceptable. The word “respects” shall be deleted in the last sentence of Section (c).*

- Add “, via blanket form endorsement” to the end of the (d)

Response: *Acceptable*

- In (e), changes “per occurrence” to “per incident” in the fourth line and delete the following at the end of the paragraph “provided that there... in either policy.”

Response: *Changing “per occurrence” to “per incident” is Acceptable. Deleting “provided that there...in either policy” is Unacceptable.*

6. Company objects to Section 4.2 to the extent it states that the Authority will not be liable for a Change in Law except in the event that Frederick County promulgates a law, ordinance, regulation, or fee related to the Acceptance Facility. Company takes exception to this provision and believes it should be amended to also make the Authority liable for any Changes in Law imposed by the State of Maryland on the transportation and/or disposal of solid waste.

Response: *Acceptable*

7. Company objects to Section 6.3(a) with respect to the fact that non-payment by the Authority must be in the amount of \$1 million or more before it amounts to a potential Event of Default by the Authority. The threshold amount should be \$50,000 or more.

Response: *The first sentence of Section 6.3 (a) shall be updated as follows: “The failure by the Authority to pay any undisputed amount in excess of \$75,000...”*

8. Waste Management objects to Section 3.2 with respect to maximum Inflation Index increase of 3%. The 3% should be removed.

Response: *The maximum Inflation Index increase, for each one-year period, shall not exceed 1.04, or 4%.*

9. Can loaded trailers remain on-site more than 24 hours beginning Saturday’s at 5 p.m. through Monday’s at 5 a.m., for a total of 36 hours?

Response: *No.*

10. How long on average do trucks have to load before incurring fines?

Response: *The Company must provide the necessary amount of trucks and/or personnel to ensure all Acceptable Waste on the Acceptance Facility tipping floor and in tunnels is placed in a trailer and covered prior to 4:30 p.m. (Monday through Saturday, except Holidays).*

11. Can a tonnage guarantee per load be provided?

Response: *No.*

12. Can a tonnage guarantee per year be provided?

Response: *No.*

13. Can alternate disposal site be in the same region or state as primary disposal site?

Response: *Yes. See response to Question 37 of Addendum No. 1.*

14. Can an alternate price be proposed for alternate site?

Response: *No. See response to Question 26 of Addendum No. 1.*

15. Per the bid specs "The maximum Inflation Index increase for each one-year period shall not exceed 1.03 or 3.0%". Can this be changed to remove the cap?

Response: *See response to Question 8 above.*

16. In the interest of saving paper and natural resources, may we provide a link to our investor's website that has our company's current and historical financial information available for download in lieu of providing copies of the following:

- I. Copies of most recent 10-Ks filed with the U.S. Securities and Exchange Commission (SEC) and all 10-Qs since the last 10-K; or, if a 10-K Form is not filed with the SEC, the following (Note: In addition to the following information, a Company may be required to submit additional financial information to satisfy other governmental reporting and disclosure rules):

Response: *Acceptable*

- II. Certified audited financial statements or annual financial reports for the past three fiscal years to include at a minimum, income statements, balance sheets, and statements of changes in financial position. If less than three years of financial statements are not available, this information should be provided to the fullest extent possible;

Response: *Acceptable*

III. Copies of the latest quarterly financial report;

Response: *Acceptable*

IV. A copy of the latest annual report;

Response: *Acceptable*

V. A copy of the prospectus and official statement, if any, for the firm's latest security offerings

Response: *Acceptable*

17. Can you identify all fines you have or can levy to hauler, i.e. speeding on site etc...?

Response: *See Section 3.1 (b) and Schedule 2 (Definitions) of Service Agreement.*