

MEMORANDUM

TO: RFP Recipients

FROM: Kitty McIlroy *KM*

DATE: November 19, 2021

SUBJECT: Addendum No. 4 to the Request for Proposals (“RFP”) for Regional Non-Recycled Municipal Solid Waste Acceptance, Processing, Transportation and Disposal Services by Northeast Maryland Waste Disposal Authority on Behalf of Anne Arundel County, Maryland and Howard County, Maryland, dated July 1, 2021.

This Addendum No. 4 is to extend the Proposal Submission Due Date from 4:00 p.m. local time Wednesday, December 1, 2021 to 4:00 p.m. local time Wednesday, December 15, 2021.

This Addendum No. 4 is to also issue amendments to the RFP and answer Proposer Questions submitted in writing by the question submittal due date of October 1, 2021. Answers issued by written addenda will be binding on the Authority, including the answers provided below.

Per Proposer request during the Pre-Proposal Conference Call Meeting, on August 2, 2021, the Authority is providing historical Anne Arundel County and Howard County waste records for fiscal year 2021 for curbside collected residential waste and non-curbside collected waste, to supplement the tonnage data provided in Exhibit II of the RFP.

410.333.2730 / 410.333.2721 fax / authority@nmwda.org
nmwda.org / Business-to-Business Recycling: mdrecycles.org
Tower II – Suite 402, 100 S. Charles Street, Baltimore, MD 21201-2705

Comprehensive Waste Management Through Recycling, Reuse, Resource Recovery and Landfill

MEMBERS:

Rhody R. Holthaus, Anne Arundel County / Vacant, Baltimore City / D’Andrea L. Walker, Baltimore County / Jeffrey D. Castonguay, Carroll County
Phillip S. Harris, Frederick County / Joseph J. Siemek, Harford County / Mark A. DeLuca, Howard County / Guillermo Wainer, Montgomery County
Charles Glass, Maryland Environmental Service / Andrew Kays, Executive Director



ANNE ARUNDEL COUNTY CURBSIDE COLLECTION		
SERVICE AREA NO.	NO. OF HOUSEHOLDS (as of 07/01/2021)	TRASH TONS FY 21
1	13,621	12,330
3	8,627	7,763
4	11,765	10,252
5	14,190	12,503
6	8,543	7,432
7	8,702	7,166
8	7,879	6,768
9	20,484	18,129
10	15,038	12,306
11	9,053	6,394
12	14,904	11,188
13	11,948	10,374
14	9,141	6,320
15	14,165	11,171
TOTAL CURBSIDE	168,060	140,095

ANNE ARUNDEL COUNTY NON-CURBSIDE COLLECTION	
	TRASH TONS FY 21
COMMUNITY CLEANUP/COUNTY-WIDE & SPECIAL PROJECTS	649
SELF HAUL TO MLFRRF (NO CHARGE)	32,183
SELF HAUL TO NORTHERN RECYCLING CENTER	29,404
SELF HAUL TO CENTRAL RECYCLING CENTER	15,224
SELF HAUL TO SOUTHERN RECYCLING CENTER	13,330
GOVERNMENT AGENCIES DELIVERY TO MLFRRF	2,968
MLFRRF (CHARGE), INCLUDING MLFRRF-MATTRESSES	68,473
TOTAL NON-CURBSIDE	162,231
TOTAL TONS	302,326

Fiscal Year 2021 Annapolis Junction Tonnages	
Jurisdiction	Fiscal Year 2021 Trash Tons
Anne Arundel County	153,200

HOWARD COUNTY CURBSIDE COLLECTIONS		
NO. OF HOUSEHOLDS	SERVICE AREA NO. (AS OF 7-1-21)	TRASH TONS FY21
TRZ-1	3,818.00	2953.85
TRZ-2	5,535.00	4356.13
TRZ-3	5,274.00	4015.63
TRZ-4	6,509.00	4544.13
TRZ-5	5,730.00	4037.13
TRZ-6	5,578.00	4435.85
TRZ-7	5,188.00	4116.48
TRZ-8	6,017.00	4510.51
TRZ-9	5,933.00	4983.43
TRZ-10	5,245.00	4293.14
TRZ-11	5,347.00	4280.32
TRZ-12	6,338.00	4543.85
TRZ-13	5,939.00	5243.31
TRZ-14	4,842.00	3776.85
TRZ-15	6,050.00	4645.87
TOTAL CURBSIDE	83,343.00	64,736.49

HOWARD COUNTY NON-CURBSIDE COLLECTIONS	
	TRASH TONS FY21
COMMUNITY CLEANUP	73.85
REBUILD TOGETHER	-
FRONT-END DUMPSTERS	6,197.35
LANDFILL TRANSFER	60,176.07
GOV'T OTHER	58.66
TOTAL NON-CURBSIDE	66,505.93
TOTAL TONS	131,242.42

1. **Question:** The RFP states the contract is for approx. 1 year with either 9 or 10 one-year extension options. Can you please make the initial term 3 years with the remaining one year extension options[?] This will help offset the initial startup costs. Also, can you please make the extension years mutual.

Answer: No, the initial terms cannot be extended. Additionally, due to Authority procurement regulations and applicable case law, mutual renewal terms are not permissible. The RFP, Exhibit III, Service Agreement terms as stated in Section 4.1 remain firm.

2. **Question:** If more than one proposer is awarded the work, how will the work be divided to keep a steady waste stream.

Answer: *If more than one qualified Proposer is selected per Member, the Members would award the Service on a variety of factors, depending on price and convenience, such as choosing Acceptance Facilities that have the closest proximity to Member collection routes or the Alpha Ridge Landfill (“ARL”) and Millersville Landfill and Resource Recovery Facility (“MLFRRF”), as applicable. These considerations, as well as wait times and/or congestion from other haulers using the same Acceptance Facilities would likely play a part in determining how the Service would be divided.*

3. **Question:** Can a proposer limit the amount of tons they would like to receive per day.

Answer: *No. The Proposer cannot limit the amount of tons received per day under its Proposal and the awarded Service Agreement, unless the Proposer has limitations due to its permits at the Acceptance Facility and/or Disposal Facility, which the Proposer would need to provide evidence of, by submitting copies of the applicable permit and daily permit limits and detail how that would affect the tons brought in by the Members.*

4. **Question:** If the proposer wants to limit the amount of tons (i.e. 1000 tons/day) they can receive, how should they list this on the various forms. Would the proposer have to put 500 tons on Anne Arundel and 500 tons on Howard County and 1000 tons on the joint proposal or 1000 tons total on all three.

Answer: *This is not allowed under the RFP and the awarded Service Agreement. Please see the answer to Question #3 above.*

5. **Question:** The RFP mentions MBE/WBE Requirements on page 14, page 24 and section 9.19 of the service agreement. However, they do not specify what the requirements are. Can you please clarify the MBE/WBE requirements [?]

Answer: *It is the policy of Anne Arundel County to ensure that minority & women-owned business enterprises have the maximum opportunity to participate in performance of all Anne Arundel County contracts for supplies and services. Anne Arundel County MBE/WBE requirements can be found here: <https://www.aacounty.org/departments/central-services/minority-business/>.*

Howard County sets a MBE/WBE/Disabled-Owned Business Enterprises (“DBE”) subcontracting goal of 15% when a contract value is \$50,000 or more annually. Additionally, certified MBE/WBE/DBE Proposers can count 100% of the work they self-perform on contracts as part of the previously stated subcontracting goals. Thus, for the Howard County Proposal, the Proposer shall make a genuine good faith effort to comply with the Howard County Equal Business Opportunity (EBO) program’s 15% subcontracting goal. More information on Howard County MBE/WBE/DBE requirements can be found here: <https://www.howardcountymd.gov/procurement-contract-administration/equal-business-opportunity>

As an example, MBE/WBE subcontractors can include, but are not limited to, the following type of employment/facilities at either Acceptance Facilities and/or Disposal Facilities: trash pickers/litter clean up, leachate treatment facilities or other third-party facilities utilized, fueling, hauling, operations support services (e.g., uniform companies, janitorial services, operations, engineering, construction or consulting such as environmental monitoring/sampling/testing, etc.).

6. **Question:** Page 19 Section 3.1.1 states inbound and outbound scale are required. It also mentions tare weights may be used. If the proposer plans on using tare weights can you please remove the inbound and outbound scale requirement (i.e. one scale).

Answer. Page 19, Section 3.1.1, of the RFP shall be amended and replaced with the following language, with any changes noted in bold text:

*“The Acceptance Facility must provide sufficient on-site queuing space for the delivery vehicles. Queuing on public streets is not acceptable. The time between delivery vehicle arrival at, and departure from, the Acceptance Facility shall not exceed thirty (30) minutes, taking into account the arrival of collection vehicles at peak arrival times. Delivery Delay Damages as defined in the attached Service Agreement shall be applicable to Acceptable Material tonnage delivered to the Acceptance Facility for which the time period between the time recorded on the scale ticket on arrival (if there is no queue), or recorded by a punch clock or by the driver upon arrival at the Acceptance Facility (if there is a line of vehicles at the scale), and the time recorded on the scale ticket at the outbound scale of the Acceptance Facility is greater than thirty (30) minutes. **If the Proposer is using stored tare weights instead of an outbound scale, then the time recorded and noted by the County-designated hauler when leaving the Acceptance Facility will apply instead of the time recorded on the scale ticket at the outbound scale.**”*

The tipping area for Acceptable Material shall be designed to accommodate any common Waste hauling vehicle including, but not limited to, self-unloading transfer trailers, rear loading or front loading compacting trucks, roll-offs and tractor/trailers.

The Acceptance Facility must be designed and constructed to comply with Applicable Law, and with all applicable building and safety codes and all applicable code requirements of the appropriate technical societies, either as stated or as is standard in industry practice.

*The Acceptance Facility must **either include 1) an inbound and outbound scale (at least one scale for each in order to avoid traffic congestion, safety issues and delivery delays), or 2) an inbound scale, registered/stored tare weights to be used instead of an outbound scale, AND a backup scale in the event that the inbound scale fails,** which shall be operated, approved, and tested as specified in the Section 2.4 of the attached Service Agreement. The Facility must have a method to 1) accept manifests from the driver of the delivery vehicle prior to allowing them to unload to ensure it is indeed a County-designated hauler, 2) to determine if the load is in fact Acceptable Material. The Proposer must reject any truck marked as a recycling collection vehicle (e.g., a truck with recycling symbols on the outside of the vehicle/body), unless the vehicle was previously approved, in writing, by the Authority. If not previously approved, the Company must call the Authority in the event that a recycling truck is rejected and provide the truck number, hauler identification and time/date of the incident. Proposers may store tare weights of delivery vehicles at the Acceptance Facility only with an approved procedure that will ensure certifying the tare weights. A copy of the tare weight procedure must be included in the Proposer’s Proposal for consideration by the Authority. The acceptance and approval of the tare weight procedure will be referenced in Schedule IV of the attached Service Agreement. All tare weight procedures must reference Section 2.4. of the attached Service Agreement when addressing the frequency of the certification for the tare weights.”*

Page 12, Section 2.4(a), of Exhibit III Service Agreement of the RFP shall be amended and replaced with the following language, with changes noted in bold text:

*“The Company shall operate and maintain inbound, **backup scales (if using stored tare weights and not using outbound scales),** and outbound **(if not using stored tare weights and backup scales)** road*

vehicle scales at the Acceptance Facility which shall provide for automatic weighing and recording of all Wastes received and removed. The Company shall weigh all County vehicles delivering Waste to the Acceptance Facility on the Company's owned and operated in-bound scale. The scales shall incorporate a computer interface system and use software acceptable to the Authority and be compatible with the County data management system. The Company shall cooperate with the Authority and County to ensure that the electronic interface is compatible with future County data management systems. Data shall be transferred weekly on Mondays or the first Business Day of the week, and shall include all of the County's transactions for the prior week, or be transferred as otherwise requested by the County. The weight record shall include the following: County facility name or service area number, name of hauler, haulers' vehicle identification (truck number), County permit number, gross weight, tare weight, date, time of arrival, time of departure, and description of Waste in the vehicle. The Company shall be able to accept all County-issued manifests. All trucks are required to have a County-issued manifest prior to being allowed to dump under the County account."

Page 17, Section 3.1(a), of Exhibit III Service Agreement of the RFP shall be amended and replaced with the following language, with changes noted in bold text:

"From and after the Commencement Date, the Company may charge and collect from the Authority a fixed Service Fee as shown in Schedule III for each ton of Acceptable Materials accepted by the Company from the Authority, for disposal hereunder. This Service Fee shall be full and complete payment to the Company for the Services provided under this Agreement, including any taxes, fees or surcharges applied to all Acceptable Material delivered to any disposal site provided by the Company. The Company's designated **recorded tare weights OR** outbound scale (Acceptance Facility scale, if such scale is certified for commercial transactions by the State of Maryland or other regulatory authority) records shall be the basis for payment for Acceptable Materials transferred from the Acceptance Facility."

Page 47, Schedule II, Delivery Day Damages of Exhibit III Service Agreement of the RFP shall be amended and replaced with the following language, with any changes noted in bold text:

"**Delivery Delay Damages**" The Authority is entitled to assess Delivery Delay Damages in an amount equal to fifty percent (50%) of the applicable Service Fee for every ton of Acceptable Material delivered by any vehicle delivering Waste at the Acceptance Facility for which the waiting time exceeds thirty (30) minutes due to the failure of the Company to supply Acceptable Material acceptance at the Company Facility. The waiting time shall be measured by taking the difference between the time recorded on the scale ticket on arrival at the Company Facility, or the time of arrival at the Facility as recorded by the driver/**County-designated hauler**, and the time recorded on the scale ticket at the outbound scale of the Company Facility (**or if using recorded tare weights and not using outbound scales, the time recorded by the driver/County-designated hauler when leaving the Facility**). The Company will not be assessed damages if the delay is the result of an unrelated third-Party hauler delivering Waste to the Facility. The Company will only be liable for Delivery Delay Damages if the Company's actions cause the delay."

7. **Question:** Page 26 Section 5.3 discusses annual increases based on 75% of CPI-U. Can annual increase be based on 100% of CPI-Water/Sewer/Trash (W/S/T). This is more reflective of our industry.

Answer: No. The designated CPI-U index will not be amended in the RFP. The proposed CPI-Water/Sewer/Trash (W/S/T) index is influenced by large capital costs on the wastewater side. The CPI-U index, used in the RFP, is consumer based and reflective of the consumption side of waste generation.

However, please note, page 26, 5.3, of the RFP shall be amended and replaced with the following language, with changes noted in bold text:

*“The Proposer must submit a complete Proposal on the Proposal Submission Due Date. The Proposer shall provide BOTH SEPARATE AND JOINT Price Proposals (on Forms B-1-A, B-1-B, and B-1-C and Forms B-2-A, B-2-B, and B-2-C attached hereto) for both Service options for Anne Arundel County and Howard County for the initial term and extensions at the Authority's sole discretion, as listed in the Section 7.1 of the attached Service Agreement. Copies of the completed Forms B-1-A, B-1-B, and B-1-C and Forms B-2-A, B-2-B, and B-2-C should be included in each Proposal (in the original and in the five copies). The Proposals shall be an all-inclusive price and shall not include an Inflation Adjustor. The Price Proposal shall be in current dollars. The price adjustment for the start of Service will be made as prescribed in Section 3.2 of the attached Service Agreement. Please note that the applied CPI adjuster may result in a decrease in pricing per ton on a year-to-year basis during the term of the Service. Proposers may propose a fixed schedule of prices, not subject to CPI or other indices adjustment, in their Proposal as a supplement to Forms B-1-A, B-1-B, and B-1-C and Forms B-2-A, B-2-B, and B-2-C. The allowed annual CPI adjustment under Section 3.2 of the attached Service Agreement uses an index that contemplates fuel costs. **Section 3.1 of the attached Service Agreement states that there is no fuel adjuster during the initial term, or any of the extension periods, of this Agreement.** The Inflation Adjustor for Anne Arundel County and Howard County shall be **100% (with no fuel adjuster allowed)** of any change in the Bureau of Labor Statistics Consumer Price Index (“CPI”) for all Urban Consumers for Baltimore-Columbia-Towson, MD - All Items (1982-84=100). For reference, in case of future piggy-backing, the CPI for all Urban Consumers for Baltimore-Columbia-Towson, MD - All Items (1982-84=100) also includes the Member Jurisdictions of Baltimore City and Baltimore, Carroll and Harford Counties in Maryland. For reference, in case of future piggy-backing, the CPI for all Urban Consumers for Washington-Arlington-Alexandria, DC-VA-MD-WV - All Items (1982-84=100) includes the Member Jurisdictions of Frederick and Montgomery Counties in Maryland.*

Pages 17-18, Section 3.2, Inflation Adjuster, of Exhibit III Service Agreement of the RFP shall be amended and replaced with the following language, with changes noted in bold text:

“[For Anne Arundel County, beginning on the Proposal Date, the Service Fee shall be adjusted according to the appropriate Annual Inflation Adjuster. All adjustments shall be made using the Bureau of Labor Statistics Consumer Price Index (“CPI”) for all Urban Consumers for Baltimore-Columbia-Towson, MD - All Items (1982-84=100). The first adjustment shall compare the most recent reported CPI as of the Commencement Date [(the February 2023 published CPI, anticipated to be posted in March 2023 for Anne Arundel County)] to the reported CPI nearest to the final Proposal Date (_____, 20__), which was published in _____ of 20___. The Proposal Date CPI is _____. The second adjustment shall compare the most recent reported CPI as of [July 1, 2024 to the CPI used for the Commencement Date, which would be the April 2024 published CPI, anticipated to be posted in May 2024]. Thereafter the most recent CPI reported as of July 1st of the current year will be compared to the CPI used from the previous year (e.g., the April CPI, usually posted in May compared against the CPI used from the previous year).

*The Annual Inflation Adjuster shall be **100** percent of any increase in the CPI up to a certain cap. The most recent reported CPI as of July 1st of current year less the CPI used from previous year equals the index point change. Multiply the index point change by **1.00** and then divide that number by the CPI used in the previous year and add 1 to equal the Inflation Adjustor. The Inflation Adjustor shall be rounded to the second decimal place.*

The maximum annual Inflation Adjustor, for each one-year period, shall not exceed 1.04.

Example of Annual Inflation Adjustor Calculation:

Commencement Date adjustor:

CPI for Commencement Date: (the February 2023 published CPI, anticipated to be posted in March 2023 to the reported CPI nearest to the final Proposal Date (____ 20__), which was posted in (____ 20__).

Use the actual CPI nearest to the final Proposal Date of 144.327 [example used as a placeholder].

Use the actual Proposal Date CPI (144.327 [example used as a placeholder]) and [an example] Commencement Date CPI of 147.201:

Index Point Change: $147.201 - 144.327 = 2.874$

*Inflation Adjustor: $(2.874 * 1.00) / 144.327 + 1 = 1.02$ (rounded to second decimal place).*

Thereafter the most recent CPI reported as of July 1st of the current year will be compared to the CPI used from the previous year (e.g., the April CPI, usually posted in May compared against the CPI used from the previous year)].

[For Howard County, beginning on the first option year renewal date, the Service Fee shall be adjusted according to the appropriate Annual Inflation Adjustor. All adjustments shall be made using the Bureau of Labor Statistics Consumer Price Index ("CPI") for all Urban Consumers for Baltimore-Columbia-Towson, MD - All Items (1982-84=100). The first adjustment shall compare the most recently reported CPI as of July 1, 2023 (the April 2023 published CPI, anticipated to be posted in May 2023) to the reported CPI nearest to the Commencement Date (the April 2022 published CPI, anticipated to be posted in May 2022). Thereafter the most recent CPI reported as of July 1st of the current year will be compared to the CPI used from the previous year (e.g., the April CPI, usually posted in May compared against the CPI used from the previous year).

*The Annual Inflation Adjustor shall be **100** percent of any increase in the CPI up to a certain cap. The most recently reported CPI as of July 1st of current year less the CPI used from previous year equals the index point change. Multiply the index point change by **1.00** and then divide that number by the CPI used in the previous year and add 1 to equal the Inflation Adjustor. The Inflation Adjustor shall be rounded to the second decimal place.*

The maximum Annual Inflation Adjustor, for each one-year period, shall not exceed 1.04.

Example of Annual Inflation Adjustor Calculation:

The first adjustment shall compare the most recently reported CPI to the first option year renewal date of July 1, 2023, (the April 2023 published CPI, anticipated to be posted in May 2023), to the reported CPI nearest to the Commencement Date (the April 2022 published CPI, anticipated to be posted in May 2022).

Use the example reported CPI nearest to the Commencement Date of July 1, 2022 (the April 2022 published CPI, anticipated to be posted in May 2022): CPI of 144.327.

Use the example most recently reported CPI to the first option year renewal date of July 1, 2023, (the April 2023 published CPI, anticipated to be posted in May 2023): CPI of 147.201.

Index Point Change: 147.201– 144.327 = 2.874

*Inflation Adjustor: (2.874 * 1.00) / 144.327 + 1 = 1.02 (rounded to second decimal place).*

Thereafter the most recent CPI reported as of July 1st of the current year will be compared to the CPI used from the previous year (e.g., the April CPI, usually posted in May compared against the CPI used from the previous year)].”

- 8. Question:** Form A-2, Waiver of Damages. Can you please remove “any agreement entered into for services described in the RFP” from this waiver [?]

Answer: No. The terms of Form A-2, Waiver of Damages, as stated in the RFP remain firm.

- 9. Question:** Indemnification, can you please remove “contamination of or adverse effects on the environment” in the first paragraph as that is more clearly covered under violation of governmental laws (which would include environmental laws).

Answer: No. The terms of the RFP, Exhibit III, Service Agreement, Section 5.3, Indemnification remain firm.

- 10. Question:** Damages. Section 9.13, Sample Agreement: Would the Authority agree to make this mutual – meaning that Company would also not be liable for special, consequential or indirect damages?

Answer: No. The terms of the RFP, Exhibit III, Service Agreement, Section 9.13, remain firm.

- 11. Question:** RFP, Page 31, Section 5.3.5.B indicates that an officer needs to sign the letter that stipulates “will be able to obtain perf bond equal to the value of ½ of 1 yr. of estimated services.” Will you accept signature by Attorney-in-Fact with an effectively dated Power of Attorney? Obtaining officer’s signatures is still difficult these days with so many people continuing to work from home.

Answer: An electronic signature or non-electronic signature is acceptable for any option as stated above, including for an Officer or Attorney-in-Fact.

- 12. Question:** Performance Bond Form, Page 70, last paragraph. We’d like to request to remove the language in [italic] and add [bold] below:

This Performance Bond is for the term beginning the _____ day of _____ and ending the _____ day of _____. Provided, however, that this bond may be continued in force by Continuation Certificate, executed by the Surety. If Surety elects to not renew the bond upon the expiration of any annual term, Surety shall provide written notice to both the Obligee and the Principal of such intention at least 60 days prior to the expiration of any such annual term. [Non-renewal or c] Cancellation of the bond shall constitute a Default under the bond and be the basis or trigger for a claim. Surety’s liability under this Performance Bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this Performance Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.

Answer: Per Schedule V in Exhibit III, Service Agreement, the following language:

“This Performance Bond is for the term beginning the _____ day of _____ and ending the _____ day of _____. Provided, however, that this bond may be continued in force by Continuation Certificate, executed by the Surety. If Surety elects to not renew the bond upon

the expiration of any annual term, Surety shall provide written notice to both the Obligee and the Principal of such intention at least 60 days prior to the expiration of any such annual term. Non-renewal or cancellation of the bond shall constitute a Default under the bond and be the basis or trigger for a claim. Surety's liability under this Performance Bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this Performance Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto."

shall be amended and replaced with the following language (bold) font for emphasis of changes made):

*"This Performance Bond is for the term beginning the _____ day of _____ and ending the _____ day of _____. Provided, however, that this bond may be continued in force by Continuation Certificate, executed by the Surety. If Surety elects to not renew the bond upon the expiration of any annual term, Surety shall provide written notice to both the Obligee and the Principal of such intention at least 60 days prior to the expiration of any such annual term, **so that the Principal can obtain a bond in the same amount and on the same terms from a different surety.** Non-renewal or cancellation of the bond, **unless replaced by the Principal prior to the expiration date and under the same terms and amount from a different surety,** shall constitute a Default under the bond and be the basis or trigger for a claim. Surety's liability under this Performance Bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this Performance Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto."*

13. **Question:** For Anne Arundel County, the Service will commence on April 12, 2023 continuing until the end of the day (11:59 PM) June 30, 2024, with nine additional twelve-month options to renew at the Authority's sole discretion, with the last possible term running until the end of the day (11:59 PM) June 30, 2033. For Howard County, the Service will commence on July 1, 2022 continuing until the end of the day (11:59 PM) June 30, 2023, with ten additional twelve-month options to renew at the Authority's sole discretion, with the last possible term running until the end of the day (11:59 PM) June 30, 2033. Will the Authority agree to amending the twelve-month options so that they renew upon the parties' mutual agreement?

***Answer:** No. Due to Authority procurement regulations and applicable case law, mutual renewal terms are not permissible. The RFP, Exhibit III, Service Agreement terms as stated in Section 4.1 remain firm. Please see the answer to Question #1 above.*

14. **Question:** P. 7 Scenario 1, Proposer will be notified of the anticipated start and stop dates when the counties plan to direct their trash to their own landfills. How far in advance will the contractor be notified? Can the Authority provide 48 hours' notice?

***Answer:** The Authority and/or Members shall provide 48 hours' notice if the Members need to direct their Acceptable Material to the MLFRRF or ARL, in order to achieve operational initiatives, unless there is an unforeseen emergency situation and 48 hours' notice is not possible.*

15. **Question:** Section 4.1.5 states that we must submit an MBE/WBE Subcontracting plan. Where does the Authority anticipate the contractor implementing a subcontracting plan since these are delivered volumes and little opportunity to incorporate such plan?

Answer: Please see the answer to Question #5 above. There is opportunity for the Proposer to incorporate a MBE/WBE subcontracting plan for the employees or subcontractors working at the Proposer's Acceptance Facility and Disposal Facility.

16. **Question:** Article II: 2.2 (b) requires the company to give 30-minute notice of unacceptable material delivered. Can this be changed to 24 hours?

Answer: No. The terms as stated in the RFP, Exhibit III, Service Agreement, Section 2.2, remain firm. The intent is to protect the Acceptance Facility and the County by ensuring that County-contracted haulers are not disposing of Recyclables, Recyclable Material or yard waste or other Unacceptable Material. The Members and Authority need to be able to complete an assessment as soon as possible in order to determine who is at fault if such a situation occurs.

17. **Question:** Article II: 2.3 (a) Can alternate acceptance hours be agreed in advance? The facility we are proposing closes at 1:30pm on regular Saturdays with hours on a Saturday following a holiday end at 4pm.

Answer: No. The Receiving Hours as stated in RFP, Exhibit III, Service Agreement, Schedule II remain firm.

18. **Question:** Article III of the service agreement references the Authority's preferred inflation adjuster. Will the Authority allow for the usage of CPI - WST index since that more closely aligns with the services outlined in this RFP?

Answer: No. The CPI terms as stated in Section 5.3 of the RFP remain firm, other than amendments incorporated herein. Please see the answer to Question #7 above.

19. **Question:** Article III of the service agreement references the Authority's preferred inflation adjuster. Would the Authority consider allowing 100% of any change in the CPI as the basis for annual Inflation Adjustment? Our costs continue to increase in line or in excess of the CPI index. As such we depend on relationships that allow for the passing through of said increases directly to our customers. 100% of CPI helps to ensure sustained continuity of our organization and services.

Answer: Yes. Please see the answers to Question #7 and Question #18 above.

20. **Question:** Article III of the service agreement references the Authority's preferred inflation adjuster. Will the Authority eliminate language referencing a decrease in CPI adjuster that may result in a decrease in pricing per ton?

Answer: Yes. Please see the new language in the answer to Question #7 above regarding the CPI-U index

21. **Question:** Pricing Proposal. Will the Authority accept maximum tons per day allowed in addition to maximum tons per year?

Answer: No. Please see the answer to Question #3 above.

22. **Question:** Pricing Proposal. Will the Authority allow for a separate charge of \$35.00 for mattress or mattress foundation?

Answer: No. The Acceptable Material, including mattresses and other large items normally generated by residential housing units and commercial establishments, as stated in Schedule II, in Exhibit III, Service Agreement, remains firm.

23. **Question:** Schedule II: Can the definition of the term “white goods” be changed to not include any CFC containing appliances?

Answer: White Goods shall be removed from the definitions of Acceptable Material and Non-Processible Waste.

Per Schedule II to the Service Agreement of Exhibit III of the RFP and per the answer to Question #2 of Addendum No. 3, the definition of “Non-Processible Waste” shall be replaced with the following:

“means Acceptable Material that cannot be processed by incineration or waste to energy, and must be landfilled, including the following: (a) dirt, concrete and other construction material and demolition debris; (b) incinerator residue, ashes and foundry sands disposed of as Wastes; and (c) any other Acceptable Materials the receipt and combustion of which is likely to cause damage to or otherwise materially and adversely affect the operation of the Facility, constitute a material threat to health or safety, or violate or cause the violation of any Applicable Law or any Governmental Approval.”

Additionally, per Schedule II to the Service Agreement of Exhibit III to the RFP and per the answer to Question #2 of Addendum No. 3, **the definition of “Unacceptable Material” shall be replaced with the following:**

“means

(A) Hazardous Waste;

(B) That portion of Solid Waste the disposal of which (i) may present a substantial endangerment to public health or safety, or (ii) would cause Applicable Law to be violated, or (iii) is likely to materially adversely affect the operation of a Facility; provided, however, that if such Unacceptable Material (other than Hazardous Waste) is delivered in quantities and concentrations as determined by the Authority and as part of normal collections so as not to have the effect described in clauses (i), (ii) and (iii) above it shall constitute Acceptable Material unless otherwise directed by State or Federal regulatory authorities. The Unacceptable Material described in this paragraph (b) shall include:

(1) Pathological and biological waste, explosives, medical and infectious Waste, cesspool and other human Waste, sewage sludge, human and animal remains;

(2) Large items of machinery, equipment and mechanical parts, such as motor vehicles and major components thereof, large automobile and vehicular parts, including tires (unless the tire(s) are incidental tires and not intentionally included in the Acceptable Material load (i.e., up to and including five (5) tires per Acceptable Material load can count as incidental), trailers, agricultural equipment, marine vessels, or any other related large item of Waste;

(3) Oil sludge, other sludge, sewage, Wastewater and septic, cesspool, human, animal, offal and other liquid wastes;

(4) Radioactive wastes as defined in COMAR 26.15.02; and

(5) Oils, paints, acids, caustics, poisons, asbestos, chemicals, highly ignitable substances, explosives and ordnance materials.

(6) Refrigerators, washing machines, large appliances and similar material (“White Goods”),

(unless the White Good(s) are incidental White Good(s) and not intentionally included in the Acceptable Material load (i.e., up to and including two (2) White Goods per Acceptable Material load can count as incidental);

(C) Does not include Acceptable Material set forth by the appropriate permits and orders contained in Section 2.10 of this Agreement.

24. **Question:** Service Agreement: P. 6, Par. G states, “The Authority reserves the right to offer the transportation and disposal terms in the selected Proposer(s) Service Agreement(s) to other Authority Member Jurisdictions.” The RFP states that “Service shall be available for any other Authority Member Jurisdiction to piggy-back on, if requested by a Member Jurisdiction, and agreed to by both the contractor and County, in an amendment to its respective Service Agreement.” Can the Authority confirm that the contractor shall not be required to provide services to counties other than Anne Arundel and Howard Counties unless it separately agrees to do so?

***Answer:** The Authority confirms that per Exhibit III, page six of the Service Agreement, and per Section 1.1 of the RFP, that Service shall be available for any other Authority Member Jurisdiction to piggy-back on, if requested by another Member Jurisdiction, and agreed to by both the Company and Anne Arundel County or Howard County, as applicable, in an amendment to its respective Service Agreement. If agreed to by the Company, the Company shall honor the existing as well as potential future offered or negotiated transportation and disposal terms to the other Member Jurisdictions.*

25. **Question:** Service Agreement: P. 14, Section 2.5(b) states, “If Unacceptable Material is delivered to the Acceptance Facility, and the source of such Unacceptable Material or hauler delivering Unacceptable Material cannot be determined by the Parties, the Company shall separately contain, set aside, segregate, isolate and manage the Unacceptable Material as required by Applicable Law, **and the Authority and the County shall be notified immediately of its location, general character and amount.** The Company shall remove, or cause to be removed, such unknown sourced Unacceptable Material from the Acceptance Facility and shall transport and dispose of, or shall cause such Unacceptable Material to be transported and disposed, in accordance with Applicable Laws. The Company shall, at no expense to the County or the Authority, bear all of the costs of transportation and disposal of Unacceptable Material from a hauler that was not identified. ...” Will the Authority agree to remove the highlighted language? If the contractor is agreeing to be solely responsible for the disposal of unacceptable waste in these circumstances, it is not necessary for the Authority and the Counties to be immediately notified of the discovery of such unacceptable waste. This is particularly true in circumstances where the third party responsible for the delivery of the unacceptable waste is unknown but is definitely not the Counties, e.g., the unacceptable waste is discovered before the Counties make any deliveries to the acceptance facility on a given day.

***Answer:** Exhibit III, page 14, Section (b) of the Service Agreement shall be amended and replaced with the following text:*

“(b) If Unacceptable Material is delivered to the Acceptance Facility, and the source of such Unacceptable Material or hauler delivering Unacceptable Material cannot be determined by the Parties, the Company shall separately contain, set aside, segregate, isolate and manage the Unacceptable Material as required by Applicable Law. The Company shall remove, or cause to be removed, such unknown sourced Unacceptable Material from the Acceptance Facility and shall transport and dispose of, or shall cause such Unacceptable Material to be transported and disposed, in accordance with Applicable Laws. The Company shall, at no expense to the County or the Authority, bear all of the costs of transportation and disposal of Unacceptable Material from a hauler that was not identified. The foregoing shall not be considered to be a waiver of any claim the Company may have against any other third-Party. The Company may make any such claim directly against the Party

involved, and to the extent necessary by Law; in order for such claim to proceed, the Authority and the County must assign to the Company their respective rights to make such a claim. The Company will however be responsible for such claim that may result in any legal liability.

The Company will be responsible for the costs according to this subparagraph and shall also be solely responsible for any penalty or fine assessed by any State or Federal agency resulting from the delivery of the Unacceptable Material to the permitted Disposal Facility.”

26. **Question:** Service Agreement: p. 17, Section 3.1(b) states, “The Authority may retain or set-off from any amounts due the Company, Alternate Disposal Damages, Alternate Procurement Damages and Delivery Delay Damages [or damages to pay for repair of the Facilities made necessary by the Company’s direct misuse or negligence of the Facilities or equipment].” Is the Authority willing to remove the [bolded] language? The Authority is not responsible for any damages caused by the contractor to its own Facilities or equipment, so this language is not applicable.

Answer: Yes. Page 17, Section 3.1(b), of Exhibit III Service Agreement of the RFP shall be amended and replaced with the following language, with added text noted in bold font:

“The Authority may retain or set-off from any amounts due to the Company, Alternate Disposal Damages, Alternate Procurement Damages and Delivery Delay Damages.”

27. **Question:** Service Agreement: p. 21, Section 3.7(a) requires the contractor to maintain records related to the agreement between the contractor and the Authority and “all other agreements,” and requires that the company make “all such book, records and accounts available for inspection and photocopying...within five (5) Business Days...” Does this Section require the contractor to allow the Authority to inspect records related to the Agreement between the contractor and the Authority’s agreement only, or is the Authority seeking the right to inspect records unrelated to the parties’ agreement (e.g., “all other agreements”)?

Answer: Exhibit III, page 21, Section 3.7(a) of the Service Agreement shall be amended and replaced with the following text (changes noted in bold text): “(a) The Company shall maintain all books, records and accounts necessary to record all matters affecting the Service Fee, Out-of-Hours Delivery Charge, applicable damages or other amounts payable by or to the Authority or the Company under this Agreement or other agreements **related to this Agreement**, including, but not limited to, policies for Required Insurance, policy amendments and all other related insurance documents. The Company shall maintain all such books, records and accounts in accordance with Generally Accepted Accounting Principles (“GAAP”) and for a period no less than seven (7) years after the termination of the Service Agreement. The Company’s books, records and accounts shall accurately, fairly and in reasonable detail reflect all the Company’s dealings and transactions under this Agreement and other agreements **related to this Agreement**, and shall contain sufficient data to enable those dealings and transactions to be audited in accordance with generally accepted auditing standards. The Company shall make all such books, records and accounts available for inspection and photocopying by the Authority and the County within five (5) Business Days of a written request by the Authority or County.”

28. **Question:** Service Agreement: Page 23, Section 4.2: Can the contractor “pass through” any fee increases caused by changes in law promulgated by government bodies other than Howard County or Anne Arundel County (e.g., by the state of Maryland or CSX Transportation)?

Answer: No. All terms of page 23, Section 4.2, Exhibit III Service Agreement of the RFP shall remain firm. For additional information, see also the definition of “Change of Law” on page 46, Schedule II, Exhibit III Service Agreement.

29. **Question:** Service Agreement: Page 23, Section 4.2: Can the contractor “pass through” fee increases promulgated by Howard/Anne Arundel County that relate to the Disposal Facility (vs. the Acceptance Facility)?

Answer: No. See the answer to Question #28 above.

30. **Question:** Service Agreement: Page 24, Section 5.1: If a subcontractor hired by the contractor fails to maintain the Required Insurance without the contractor’s knowledge, will the Authority consider that an Event of Default?

Answer: Yes, however, the Authority and its Member Jurisdictions will operate in good faith and provide notice to the Company that it is in an Event of Default, and allow a time period for the Company to rectify the Event of Default, such as providing time for the Company to notify its subcontractors to obtain the Required Insurance, obtain replacement subcontractors that have the Required Insurance, or take over the responsibilities of the subcontractors and self perform the Services with the Required Insurance. More specifically, per Exhibit III, page 27, Section 6.1.11 of the Service Agreement: “No failure or refusal on the part of the Company described in Sections 6.1, except 6.1.10 constitute an Event of Default unless and until: (A) the Authority has given notice to the Company specifying with particularity the existence of such Default; and (B) the Company has failed to cure such Default within thirty (30) days after receipt of such notice.”

31. **Question:** Service Agreement: Page 28-29, Sections 6.3.3 and 6.3.4: Will the Authority agree to reduce the notice and cure period following any failure by the Authority to pay more than two months’ of Service Fees from 60 days to 30 days? As currently stated, an invoice may remain unpaid by the Authority for up to four months before the Authority can be considered in default of the Agreement.

Answer: No, the RFP, Exhibit III, Service Agreement terms as stated in Section 6 remain firm.

32. **Question:** Service Agreement: Schedule II, p. 51, definition of “Participating Member Waste Disposal Agreement” as “another Authority Member Jurisdiction that the Authority enters into a Waste Disposal Agreement with, that was not originally included in this procurement, such as Baltimore City, Baltimore County, Carroll County, Frederick County, Harford County and Montgomery County.” Should this instead read “a Waste Disposal Agreement between the Authority and another Authority Member Jurisdiction that was not originally included in this procurement, such as Baltimore City, Baltimore County, Carroll County, Frederick County, Harford County and Montgomery County?”

Answer: Per the RFP, Exhibit III, page 51, Schedule II of the Service Agreement, the definition of “Participating Member Waste Disposal Agreement” shall be amended and replaced with the following text: “means a Waste Disposal Agreement between the Authority and another Authority Member Jurisdiction that was not originally included in this procurement, such as Baltimore City, Baltimore County, Carroll County, Frederick County, Harford County and Montgomery County.”

Additionally, per the RFP, Exhibit III, page 51, Schedule II of the Service Agreement, the definition of “Participating Member Service Agreement” shall be amended and replaced with the following text: “means a Service Agreement between the Authority and the Company, on behalf of another Member Jurisdiction that was not originally included in this procurement, such as Baltimore City, Baltimore County, Carroll County, Frederick County, Harford County and Montgomery County.”

33. **Question:** Service Agreement: Schedule II, p. 52 - “Recyclables” or “Recyclable Material” means paper, plastic, metal and glass that have been source-separated from the Waste. It also means yard waste, source separated from Waste or source separated paper, plastic, metal and glass. Can the Authority provide a more specific definition of the terms “recyclables”/“recyclable materials” – specifically what

types of paper, plastic, metal, and glass are considered recyclable under this agreement? Section 2.2(b) requires the contractor to inspect loads delivered to the Acceptance Facility and notify the Authority any time it discovers a load containing more than 50% source-separated recyclable material, so it is necessary for the contractor to understand what material types fall into this category.

Answer: *If the Company inspects loads that appear to be more than 50% of source separated, e.g., separately sorted and put at the curb for collection, Recyclables, Recyclable Material or yard waste, as deemed acceptable in the applicable Member Jurisdiction's recycling/diversion program, then the Company shall notify the Authority and Members per the Service Agreement terms. Both Counties state that Recyclables, Recyclable Material and yard waste are not to be set out in plastic bags, while Acceptable Material is. See RFP, Section 1.1, pages 8-9, for the reference for more information on the respective County recycling programs.*

34. **Question:** Service Agreement: Schedule VI, p. 87-88 – Required Insurance. Section 1. Required Insurance. – Please strike the last part of the paragraph that states “and certified copies of all insurance policies.”

Answer: *All terms of page 87, Section 1, Exhibit III, Service Agreement of the RFP remain firm.*

35. **Question:** Service Agreement: Schedule VI, p. 87-88 – Required Insurance. Section 1. Required Insurance. (b) Commercial General Liability Insurance – Regarding naming all facility operators as additional insureds, [Company]'s policies utilize blanket additional insured endorsements, which provide AI status when required by written contract. The endorsement will not specifically show names.

Answer: *This is acceptable under the Service Agreement.*

36. **Question:** Service Agreement: Schedule VI, p. 87-88 – Required Insurance. Section 2. General. (a) Additional Insureds – [Company's] policies utilize blanket additional insured endorsements, which provide AI status when required by written contract. The endorsement will not specifically show names.

Answer: *This is acceptable under the Service Agreement.*

37. **Question:** Service Agreement: Schedule VI, p. 87-88 – Required Insurance. Section 2. General. (a) Additional Insureds – Please strike the following sentence, “all losses under the required insurance shall be adjusted to the satisfaction of the Authority.”

Answer: *Per Schedule VI, page 88 – Required Insurance. Section 2. General. (a) Additional Insureds in Exhibit III, Service Agreement of the RFP, the second sentence shall be amended and replaced with the following text (changes in bold text): “All losses under the required insurance shall be adjusted to the **reasonable** satisfaction of the Authority.*

38. **Question:** Service Agreement: Article III. 2.7 (d) Any transportation contract requested for review by the Authority will be redacted.

Answer: *Per Article II, Section 2.7 (d) in Exhibit III, Service Agreement of the RFP, the language shall be amended and replaced with the following text as follows (changes in bold text): All contracts between the Company and the transportation subcontractors providing Service under this contract will be made available for review upon **the reasonable** request by the Authority. The Company may mark any confidential or proprietary information as “Confidential Information.”*

