

ADDENDUM #1 TO THE
REQUEST FOR PROPOSALS
for
TRANSPORT AND/OR DISPOSAL OF SOLID WASTE
FROM THE COUNTY OF SONOMA
SOLID WASTE MANAGEMENT FACILITIES

Dated: January 13, 2005

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1. REVISIONS TO THE RFP

The last paragraph of Section 1.2 of the RFP is revised to read:

The term of the Agreement between the County and the selected Proposer may be for two years with an option for the County to extend the term for an additional one-year period. After the first twelve (12) months of the Agreement, the County reserves the right to cancel any or all of the agreements upon 90 days prior written notice. In addition, depending on the outcome of a long term solid waste disposal planning process currently underway, the County may desire to negotiate longer term transport and disposal agreements. In order to assist the County in this process, the County is also requesting additional Transport and Disposal cost proposals for five (5) and ten (10) year terms. If Proposal(s) are selected for these longer term Agreement(s), the County will also commit to supply the agreed waste quantities for entire term as opposed to just the first 12 months (see Section 3.01 of the Disposal Agreement for a description of the committed waste). In addition, for purposes of submitting a proposal assume the County would not have a discretionary right to terminate the 5 and 10-year agreements (i.e., Section 2.03.3 of both agreements would be deleted). If a Proposer desires to offer services for these longer terms, please supply this cost information in the spaces indicated on Exhibit A, Transportation and Disposal Price Form.

Section 2.2 of the RFP is revised to read:

2.2 County Contact for Information and Access to System Facilities

All written inquiries, requests for additional information regarding this RFP or requests for access to inspect the County's System Facilities should be directed to the Integrated Waste Manager, noted above. Do *not* directly contact other County staff or members of the Board of Supervisors about this RFP. Individuals or organizations who do so may be disqualified from further consideration. This contact restriction does not apply to other County solid waste issues and programs. County will recognize only those responses to inquiry issued in writing by County in Addendum form as binding modifications to this RFP.

Sections 3 and 5 of the RFP are revised to extend the proposal due date until 3 p.m. on **February 15, 2005**.

Section 4.1 of the RFP is revised to read:

4.1 Proposal Submittals

The Proposal must contain a fully executed Transport and Disposal Price Form (in the form of Exhibit A) and a Proposal Authorization and Security Agreement (in the form of Exhibit B). Any changes to these two forms should be made in the form of a proposed modification to the Transport Agreement or Disposal Agreement. These exhibits must be signed by an officer of the proposing entity authorized to bind the Proposer to the Proposal terms.

2. RESPONSE TO QUESTIONS

The following questions and responses are provided for the Request for Proposals for Transport and/or Disposal of Solid Waste from the County of Sonoma Solid Waste Facilities. Please note that there are several questions involving a suggested change to the RFP, the Transport Agreement or the Disposal Agreement. In some cases, the County has agreed to make a change, which is reflected in this Addendum and revisions to the draft Transport and Disposal Agreements, which are attached and supercede the draft Agreements distributed initially. However, in many cases, the County's response is not to make any changes. Notwithstanding such response, Proposers have the ability to submit a proposal based on modifications to the Transport Agreement or the Disposal Agreement. If a proposed modification affects a Proposer's pricing, the County would encourage the Proposer to submit two Proposals – one assuming no modification and one with the proposed modification.

Q(1): Section 2.2 regarding direct contact of County staff and Board of Supervisors: What is the time period for the "no contact" rule during the bid process? For example: Can bidders contact County staff or the Board of Supervisors after the bid has been submitted or after January 31, 2005?

A: The "No Contact" Rule will end after the Board of Supervisors has awarded a contract or contracts for the work defined in the RFP.

Q(2): Define "refusal" in Section 3.4.

A: "Refusal" will be the failure of the selected Proposer to execute the agreement, in the form attached to this RFP and as modified by those modifications set forth in Proposer's Proposal, within five (5) business days from the award of the contract to the selected Proposer by the Board of Supervisors.

Q(3): Define "unconditional" in Section 4.1.

A: See Section 1, Revisions to the RFP, above.

Q(4)(a): Will the County be diligent in the evaluation of bidders regarding their prior contract history (Section 4.4) including contract violations where fines or criminal charges were imposed?

A: Yes.

Q(4)(b): If yes, what impact will contract violations have regarding the recommendations for contract award?

A: It will depend on the nature and timeframe of the violations. In addition, the County may consider forms of assurances offered by a particular Proposer (e.g., agreeing to liquidated damages, posting of a security deposit, etc.) such that future violations in the context of the proposed services are unlikely.

Q(5)(a): Will the County be diligent in the evaluation of bidders regarding their safety records and seriousness of prior safety violations (Section 4.4)?

A: Yes.

Q(5)(b): *If yes, what impact will vehicle safety and prior safety violations have regarding the recommendations for contract award?*

A: It will depend on the nature and timeframe of the violations. In addition, the County may consider forms of assurances offered by a particular Proposer (e.g., agreeing to liquidated damages, posting of a security deposit, etc.) such that future violations in the context of the proposed services are unlikely.

Q(6): *In Section 4.4 and 4.9.4, are respondents to the RFP to supply information for all “vehicle code violations” for all of our entities in California for the past five years?*

A: Proposers should provide copies of all vehicle code violations for all Transfer Vehicles (tractors and trailers designed to haul solid waste from a transfer station to a landfill) along with notices and violations, correction action notices, enforcement actions or orders, warning notices, or other forms of permit violation/non-compliance documentation that they have received in the past five (5) years for other equipment, and for vehicle staging, maintenance, processing, composting, transfer, and disposal facilities in California, which are owned or operated by the Proposer, its parent company and/or subsidiaries.

Q(7): *Would the County consider a labor action directed at Contractor from a labor organization with which Contractor has no agreement and no control over a major event (Section 4.4)?*

A: The County is interested in knowing about any type of labor dispute involving a Proposer in the past five years.

Q(8): *Can you please clarify the Performance Security Cost in Exhibit A of the RFP?*

A: Proposers are requested to list their actual cost for acquiring a performance bond (or equivalent security) for one year for each Proposal option submitted on the Proposal Price Form. If the Proposer submits either Transportation or Disposal proposals, a \$1 million performance bond will be required. If the Proposer submits a combined Transportation and Disposal proposal, a \$2 million performance bond will be required. Refer to Section 4.8 of the RFP for additional details.

Q(9): *Are full sized transfer trailers only to be used for transporting all waste from the Annapolis, Guerneville, Healdsburg, and Sonoma Transfer Stations or can doubles or box trucks be used for transport (Section 4.9.1)?*

A: It is expected that 45' transfer trailers would be used for this task. However, other size transfer trailers may be used as long as they are capable of fitting into the transfer loading bays and of being loaded from above in a normal manner without spillage or other negative impacts to the smooth and rapid operation of the transfer station. Without modification, standard double trailers and box trucks would not meet this requirement.

Q(10)(a): *How is Yard Debris and Wood Waste readied for transport at Annapolis, Guerneville, Healdsburg, and Sonoma Transfer Stations (Section 4.9.1)?*

A: Yard debris and wood waste is prepared by stockpiling and compacting the material in separate piles at the transfer station until, by visual observation, an adequate amount is accumulated for a full transfer trailer load of either material.

Q(10)(b): *Are full sized transfer trailers used or can box trucks be used to transport yard debris and wood waste?*

A: It is expected that full sized transfer trailers would be used to transport yard debris and wood waste. See answer to Q(9).

Q(11): *What length trucks are being used currently for Annapolis transport (Section 4.9.1)?*

A: Currently, 45' walking-floor trailers are used with a variety of tractors for total truck lengths that vary between 68' and 80'.

Q(12): *For transfer stations such as Annapolis, where there is less than a full load per day of waste, is it required that the transporter haul on a daily basis or wait until a full load has accumulated for transport (Section 4.9.1)?*

A: Our permit requires that solid waste be removed from the Annapolis Transfer Station within five days of the date of receipt. Therefore, the selected Transfer Company will be allowed to wait (up to five days) until a full load has accumulated to remove waste from the site. The flow of waste at all the other County sites is such that multiple full loads will be required to be hauled every day, and therefore is not an issue.

Q(13): *For transfer stations such as Annapolis where there is less than a full load per day of yard debris and wood waste, is it required that the transporter haul on a daily basis or wait until a full load has accumulated for transport (Section 4.9.1)? In the case of Annapolis, this could be a full year before enough has accumulated for a full transfer trailer load.*

A: Yard debris and wood waste will be stockpiled in separate piles at the transfer station until an adequate amount is accumulated, through visual estimates, for a full transfer trailer load of either material. The selected Transfer Company will not be required to haul partial loads.

Q(14): *Can yard debris and wood waste be hauled together since they are hauled to the same facility or are they hauled as separate loads (Section 4.9.1)?*

A: For purposes of this RFP, Proposers should assume that yard debris and wood waste will be hauled in separate loads.

Q(15): *In Section 4.9.1, how was the 20-minute turnaround time at the County facilities determined?*

A: County staff observed current operations at the Central Tipping Building to determine the 20-minute turnaround time.

Q(16): *Will the transfer operator guarantee a 30-minute load out turnaround time (Section 4.9.1)?*

A: A 30-minute load out turnaround time will not be guaranteed at this point. However, if such a guarantee will affect a Proposer's pricing, we recommend that the Proposer submit two proposals – one assuming no modifications to the Transport Agreement and one based on a proposed modification to the Transport Agreement with some type of turnaround guarantee.

Q(17): *What is the average weight per load being achieved currently by the transfer station operator for the 100-cubic-yard trailers being used (Section 4.9.1)?*

A: 16 tons of solid waste per load was the average weight of 29 transfer trailers loaded and transported by the Transfer Station Operator to an out-of-county landfill in October 2004, from the Healdsburg and Sonoma Transfer Stations.

Q(18): *When is this contract anticipated to begin and when is the award of the bid expected to occur? There is no beginning date stated, and since capital would need to be purchased, a bidder must determine whether there is adequate time to purchase such equipment before the contract begins, since 60 days is likely not enough lead time for trailers (Section 4.9.5).*

A: The Agreements for Transport and Disposal services are expected to be completed by April 2005, with hauling to commence as early as July 2005. Proposers are expected to commit to providing transport services within sixty (60) days notice from the County to start transport services. If a Proposer is unwilling to submit a proposal based on a 60-day notice period, the Proposer should submit a proposed modification to the Transport Agreement.

Q(19): *Section 4.9.2 of the RFP states that the County does not take any responsibility for the cost associated with CARB alternative fuel requirements. Could you please clarify what you mean by that? Is such a compliance cost to be borne solely by the contractor?*

A: Transportation Proposers shall provide cost proposals for the requested solid waste transfer services using transfer vehicles that meet all current and future foreseeable local, state and federal requirements. If there are any cost impacts associated with CARB vehicle emission control regulations, they must be included with the ton-per-mile cost submitted on the Transportation and Disposal Price Form.

Q(20): *Section 2.03 of the Transportation Agreement allows the County to terminate upon 90 days notice for any reason. If the County exercises this option, what opportunity will the contractor have to recover sunk capital costs?*

A: For purposes of submitting a Proposal, assume the County is committing to a minimum one-year term with very limited rights to terminate services. See changes to the Transport Agreement. It is not

anticipated that the selected Proposer will have a separate opportunity to recover sunk capital costs other than what may be recovered from the Transport Fee paid by the County for the duration of services actually provided.

Q(21)(a): *Section 3.02 of the Transportation Agreement reserves unto the County the right to hire others as well as the contractor to perform the same type of transportation services. Would the County consider guaranteeing at least a base quantity amount of tons to be secured by the contract?*

A: The County may consider a guarantee of some percentage of the waste stream to a single Transfer Company if it is demonstrated that this would be economically favorable to the County.

Q(21)(b): *Is it possible that the County could contract for 100 percent of the tonnage with another entity anytime during the Transportation contract?*

A: It is possible that County could contract for 100 percent of the tonnage with another entity during the term of the Transportation Agreement, if it were determined that this would be economically favorable to the County.

Q(22): *Section 4.01 of the Transportation Agreement allows for a designation of a different disposal facility on 48-hours notice. How will compensation be adjusted if transportation costs increase as a result?*

A: The executed Transport Services Agreement will include Transport Fees for the different disposal facilities which may potentially be used by the County, as shown in Section 5.02.1 of the Transport Services Agreement. It is intended that the Transport Fees will be based on the agreed upon distance between the County System Facilities and the various Disposal Facilities.

Q(23): *Clarify the intent of Section 4.04.1 of the Transportation Agreement.*

A: It is intended that the selected location of scale(s) for weighing solid waste before it is transported out of Sonoma County will be determined through negotiation with the selected Transfer Company. See Section 4.9.1 of the RFP.

Q(24): *Transportation Agreement, Section 4.08, are reports due at the end of the month or the twentieth day following the end of the reporting month?*

A: Required reports are due by the twentieth day of the month following the reporting month.

Q(25): *Transportation Agreement, Section 11.02, Liquidated Damages Table, page 25: Define "receipt" as used in section B.*

A: See changes to the Transport Agreement.

Q(26): *Section 11 of the Transportation Agreement provides for the imposition of liquidated damages, and specifically, Section 11.03 sets for a procedure for doing so. Will the Contractor be entitled to*

present evidence in support of its defense, and generally how is it able to contest the imposition of LD's once assessed by the County?

A: See changes to the Transport Agreement.

Q(27): In Section 4.10.3 of the RFP, can the pricing of the disposal services be for something between the 30% tonnage level and the 100% tonnage level?

A: Yes, although pricing for the 30% tonnage level would also be required. Exhibit A, the Transportation and Disposal and Price Form has been revised to allow "other" tonnage level proposals.

Q(28)(a): In the RFP, are bulky wastes, as defined, included in the tonnage numbers presented in Table A-1?

A: Yes, for those bulky wastes that remain in the wastestream and are not removed for recycling.

Q(28)(b) If yes, can we receive the tonnage numbers for bulky wastes?

A: No, this category of waste is not measured separately from the other types of solid waste at County disposal sites.

Q(29): In the Disposal Agreement, Section 1, does the definition of "Future Regulations" include amendments or revisions to existing laws?

A: Yes to the extent that they were "not reasonably foreseeable" as of the Commencement Date.

Q(30): In the draft agreement for disposal, under definitions (Section 1), the definition of "Future Regulations" includes only those regulations that were "not reasonably foreseeable" at the Commencement Date. As we understand the intent, if there is no proposed legislation or proposed regulation existing as of the commencement date, then something is not reasonably foreseeable. Please note that the definition in the Agreement would seem to require a slight correction in that it states that the term "reasonably foreseeable" shall mean that there was no proposed legislation, etc., as of the commencement date. We assume that the latter should be the definition of "not reasonably foreseeable." Alternatively, we would suggest leaving the term "reasonably foreseeable" as is and striking the word "no" in the fourth line of the definition.

A: See changes to the Disposal Agreement.

Q(31) In the draft agreement for disposal, Sections 3.01, 5.01, and 5.06, these sections identify invoicing procedures and indicate that the Contractor is to bill the Transfer Company, directly, which is fine. However, we have a number of concerns that we hope the County will address before the proposals are due. First, there should be language in the Draft Agreement that allows the Contractor to impose late fees in the event of delinquent payments by the Transfer Company, with a corresponding provision in the Transfer Company's contract with the County obligating them to make timely payment to the Disposal Contractor in accordance with the Disposal Agreement, as well as being subject to late fees for delinquencies. Secondly, Section 5.01 also indicates that the "Contractor shall not look to the

County, but only the Transfer Company for payment of any and all sums due under the Agreement.” Since the Disposal Contractor’s contract is with the County, not the Transfer Company, there needs to be a mechanism to ensure that the Disposal Contractor is properly compensated for services performed. The Contractor should have the right to look to the County for payment if the Transfer Company defaults, as well as having recourse (including service stoppage) in the event of non-payment.

A: See changes to the Disposal Agreement.

Q(32): In the draft agreement for disposal, Sections 3.02 and 4.03, it appears as though the County is requesting the Disposal Contractor to reserve as much disposal capacity as is necessary to accommodate waste delivered by the Transfer Company, yet is not willing to provide any minimum tonnage guarantee. We would recommend, at a minimum, that the County specify a minimum and maximum tonnage commitment level, under both the 30% and 100% proposal scenarios, so that the contractor can provide a corresponding guarantee of this tonnage. It would be very difficult for any contractor to reserve capacity without any commitment by the County. If the County is not willing to enter into a “put or pay” arrangement, perhaps the commitment could be structured such that the Contractor would have the right to terminate the Agreement, much like the County’s rights under Section 2.03, if the County doesn’t adhere to the tonnage commitment.

A: See changes to the Disposal Agreement.

Q(33): In the draft agreement for disposal, Section 4.01 and 4.03, we assume that any solid waste delivered by the Transfer Company, by definition, can only originate from the County. The defined terms included in Sections 4.01 and 4.03 should probably be more specific as to origin of waste, as it relates to the Contractor’s obligation to reserve disposal capacity for any tonnage delivered by the Transfer Company.

A: See changes to the Disposal Agreement.

Q(34): In the Disposal Agreement, Section 4.03, requires a guarantee of disposal capacity, however, Section 3.02 makes it clear the County is making no commitment as to the quantity of waste. Will the County consider committing to a certain quantity of solid waste so as to make it possible to know exactly how much capacity Contractor is required to guarantee?

A: For purposes of submitting a Proposal, assume the County is willing to commit to deliver a limited amount of tonnage. See changes to the Disposal Agreement.

Q(35): In the draft agreement for disposal, Section 4.05 please add “to the extent economically feasible as determined by Contractor.” at the end of the first sentence of this section. Since all of the solid waste delivered to the landfill will be via transfer and transfer trailers, any appreciable amount of materials recovery from, for instance, roll-off loads or other direct haul loads coming into the transfer stations will, by definition, take place at the transfer station locations. While we operate resource recovery programs at all of our landfills, it is highly unlikely that any solid waste delivered to our landfill from the Transfer Company, will contain any recyclable materials that can easily be manually identified and removed from the mixed waste delivered to the landfill.

A: See changes to the Disposal Agreement.

Q(36): In the draft agreement for disposal, Section 4.06, there should be clarification in the Draft Agreement that the Gate Rate will, likewise, apply to Alternative Daily Cover.

A: Proposers of Disposal Services should specify in their Proposals whether their Disposal Cost provided in their proposal applies to material delivered by the Transfer Company and diverted for use as Alternative Daily Cover or if a lower fee is charged for this material.

Q(37): In the draft agreement for disposal, Section 4.07, since this section is left blank, should proposers include their proposed days and hours of operation in their proposals?

A: Yes, this information was intended to be provided as a part of the information requested in the fourth bullet in Section 4.10.1 of the RFP.

Q(38): In the draft agreement for disposal, Section 4.08.2, we would propose two modifications to this section. First, we would propose the maximum turnaround limit be set at thirty (30) minutes, due to the fact that, unlike a transfer station, there are generally longer trip times from the scale house to the tipping area (landfill working face) in the event of landfill disposal, hence, adding time to the total trip turnaround time. Also, the fact that most all of the waste will be tipped from transfer trailers will add additional time in comparison to direct-haul vehicles. Second, we would propose a minor modification to the end of this section, as follows: “. . . absent vehicle breakdown, driver negligence, or excessive delays (beyond ten (10) minutes) in the unloading of solid waste from the transfer vehicle body.” Please note that it is possible that the Transport Company, from time to time, may run older style walking floor vehicles that take much longer to unload than a more conventional walking floor or dead floor (“possum belly”) trailer. In these cases, the maximum turnaround time stated in the contract should be relaxed in the event the driver’s unloading of the transfer trailer takes more than 10 minutes.

A: See changes to the Disposal Agreement.

Q(39): In the draft agreement for disposal, Section 4.10.2, this section requires the Disposal Contractor to handle, transport, and dispose of any “unpermitted” materials delivered by the Transfer Company. First, in the event the Disposal contractor discovers any such material prior to the tipping of such material at the landfill, the Disposal contractor, clearly, should have the right to reject such material and have no further obligations related thereto. Secondly, if the material is not discovered until after it is tipped at the landfill, the Disposal contractor should have the right to either (a) require the Transfer Company to remove the material immediately, if practicable, or (b) allow the Disposal contractor to remove the material and charge the Transfer Company for the cost of handling, transport and disposal thereof, and, in both cases, require the Transfer Company to remediate any contamination resulting there from. In no event should the cost of this procedure be borne by the Disposal contractor as it would lessen the incentive, by the Transfer Company, to ensure that it has properly screened incoming loads at the Transfer Stations, prior to loading and transfer to the landfill. It would seem that Section 4.10.3 is consistent with the above stated position; therefore, we are confused as to the applicability of Section 4.10.2. Please clarify.

A: See changes to the Disposal Agreement.

Q(40): In the draft agreement for disposal, Section 4.14.2 it appears that the reporting requirements outlined in this section are somewhat involved for a disposal contract with a two to three year term,

particularly since (a) proposers are providing contractual capacity guarantees to the County for the contract term, and (b) similar information is being provided with the initial proposals. Would the County be amenable to a condensed or more streamlined approach to these reporting requirements, provided that the data submitted accomplishes the County's objectives of verifying available capacity for the contract term?

A: Yes, however, Proposers should submit any proposed modifications along with their proposals.

Q(41): *In the Disposal Agreement, Section 5, are subsequent increases in the per ton cost of governmental taxes and fees allowed to be added to the total gate fee?*

A: See changes to the Disposal Agreement.

Q(42)(a): *Section 5.02 of the draft agreement for disposal provides for component pricing for each year of the contract, while the "Price Form" included in Exhibit A of the RFP includes input for the first contract year only. Is the Disposal Service Fee supposed to be fixed for the two-year term, as well as the third option year?*

A: Yes, the three spaces for filling in the Service Fee Component for the three years are expected to have the same Service Fee.

Q(42)(b): *If so, why is there separate line item pricing for each contract year in Section 5.02 of the Draft Agreement?*

A: The multiple locations are provided for clarity in the context of listing the components of the Total Gate Fee in the Agreement for each year.

Q(42)(c): *Also, in regard to Exhibit A, we have a few questions regarding the required input of the "Performance Security Cost." Is this supposed to be an annual absolute dollar amount for maintaining the \$1,000,000 performance bond and, if so, are these costs also supposed to be included in (or independent of) the per ton Disposal Cost directly above this line item?*

A: Proposers are requested to list their actual cost for acquiring a performance bond (or equivalent security) for one year for each Proposal option submitted on the Proposal Price Form. These costs will be assumed by the County to be included in the per ton Disposal Cost.

Q(42)(d): *In other words, are we to be compensated for this cost separately from the per ton disposal cost, or is it simply a disclosure item for purposes of the bid forms?*

A: The selected Proposer will not be compensated for this cost separately from the per ton disposal cost. As stated in Section 4.8 of the RFP, Proposers must submit costs for the bonds for comparison purposes.

Q(43): *In the draft agreement for disposal, Section 5.02, the last paragraph of this section contains what is commonly referred to as a "favored nations" or "most favored customer" provision. We would encourage the County to remove this provision of the agreement due, in great part, to the "unknowns" associated with the impact thereof. The disposal proposal should stand on its own merits and not be*

subject to comparisons to other contracts that may not reflect the same operating assumptions and risks. There are too many variables that could impact disposal rate differentials from one municipal contract to another including, for instance, the quantity of waste delivered, minimum tonnage commitment level and term/length of commitment, method of disposal (i.e., direct haul vs. transfer), specific terms and conditions of the respective disposal contracts, waste type and composition (i.e., residential, commercial/industrial, etc.), regulatory fee structures, location of waste shed (distance, in-county vs. out-of-county, etc.).

A: No change will be made to the Disposal Agreement at this time. Should a proposed modification of this section affect a Proposer's pricing, the County would encourage the Proposer to submit two proposals – one based on no modification and one based on proposed modifications.

Q(44): *In the draft agreement for disposal, Sections 5.03 and 5.04, we are unclear as to how the Contractor's rate is to be adjusted for changes to the Government Fee component. Section 5.03 references only Section 5.04 as the mechanism by which the Gate Fees can be adjusted. Section 5.04.3 deals with compliance with Future Regulations, which has nothing to do with changes to the Government Fee Component. Section 5.04.2 simply states that the Service Fee Component already contemplates the items included in paragraphs (a) through (h). As such, there is no reference to how the Government Fee component is adjusted, which, of course, should be a pass-through cost. Furthermore, Section 5.04.2 (h) references federal, state and local taxes and fees as expenses that should already be included in the Service Fee component. Since federal, state and local taxes and fees, by definition, make up the Government Fee Component, Section 5.04.2 (h) should be deleted and a new section should be added to Article 5, which provides for the pass-through of any changes to the Government Fees included in the Contractor's cost proposal.*

A: See changes to the Disposal Agreement.

Q(45): *In the Disposal Agreement, Section 5.04.2 identifies costs included in gate fees, and references costs incurred as a result of permit changes not noticed by contractor, and "costs attributable to federal, state, or local taxes and fees, or surcharges of any form that apply to any and all persons, property, income, equipment, materials, supplies, structures, or activities that are involved in the performance of this Agreement." Can the County explain what is meant by these provisions?*

A: See changes to the Disposal Agreement.

Q(46): *In the draft agreement for disposal, Section 5.04.2(g) should be deleted since it is not the Disposal Contractor's responsibility to bear the cost of handling, transport and disposal of such materials delivered by the Transfer Company.*

A: As described in Section 4.10.3 of the Disposal Agreement, the Disposal Contractor has the right to reject Unpermitted Materials. However, if the Disposal Contractor accepts such material from the Transfer Company, Section 4.10.2 and 4.10.3 specifies that the Disposal Contractor shall be wholly responsible for handling the Unpermitted Materials in a lawful manner. Based on this language, Section 5.04.2(g) of the Disposal Agreement is appropriate and will be retained.

Q(47): *In the draft agreement for disposal, Section 6.02, we are not clear as to whether the intent of this section is (a) that County can require the Contractor to use a Letter of Credit, or (b) that the use of*

letter of credit (in lieu of a performance bond) is at the election of the Contractor, subject to the County's approval. If the intent is that it mirror (a), above, the words "at the County's option" should be deleted and the words "Subject to the County's approval . . ." should be inserted at the beginning of the first sentence. If (b), above, is the correct interpretation, then we would recommend modifying the first sentence of this section to read as follows: "As an alternative to the performance bond required by Section 6.01, if the County determines that Contractor's financial position warrants that the County be afforded added performance security, at the County's option, Contractor may deposit . . ." The purpose of this modification is to enable the County to utilize a letter of credit as performance security if the County has concerns about the financial wherewithal of the contractor. There should be no reason for a letter of credit if the contractor is sound financially, the latter of which could be easily determined for the majority of the proposers who are public companies.

A: See changes to the Disposal Agreement.

Q(48): *In the Disposal Agreement, Section 7.02, are the \$10 million dollar insurance levels on page 21 negotiable?*

A: No change will be made to the Disposal Agreement at this time. Should a proposed modification of this section affect a Proposer's pricing, the County would encourage the Proposer to submit two proposals – one based on no modification and one based on proposed modifications.

Q(49): *In the draft agreement for disposal, Section 8.01 the following language at the end of the third sentence of this section should be deleted: ". . . and the reasonable costs and expenses of such attorney's incurred in defending such action shall be payable by Contractor.", as well as the related fourth and fifth sentences. Section 8.01 requires the Contractor to defend and hold the County harmless. The Contractor should not be liable for any defense costs the County chooses to incur on its own, since we have no control over such decisions.*

A: See changes to the Disposal Agreement.

Q(50): *In the draft agreement for disposal, Section 8.02, in this section the counsel that we choose to indemnify the County must be acceptable to the County. We would propose adding the word "reasonably" in the first sentence such that it reads, "Contractor shall indemnify, defend with counsel reasonably acceptable to County . . ."*

A: See changes to the Disposal Agreement.

Q(51): *In the draft agreement for disposal, Section 8.07 the word "constituting" should be replaced with the word "or" in the fourth line of this section. This is particularly important with respect to any indemnification of the Transfer Company. The Disposal Contractor should not be responsible for indemnifying and holding harmless the Transfer Company to the extent the loss or damages relate to the acts or omissions of the Transfer Company, whether or not those acts were willful.*

A: See changes to the Disposal Agreement.

Q(52): *In the Disposal Agreement, Section 11.03 provides a process before imposing liquidated damages. How may contractor contest the imposition of liquidated damages and can it provide evidence in its defense?*

A: See changes to the Disposal Agreement.

Q(53)(a): *In the Disposal Agreement, Section 11.04 requires a \$10,000 deposit to be drawn against to pay assessed liquidated damages. How can the County legally justify a pre-payment of damages not yet—or ever—assessed?*

A: Since the Disposal Operator will be paid by the Transport Company, the County has no ability to offset payments to the Disposal Operator for liquidated damages. Given the value of the Disposal Agreement, the County believes that the \$10,000 deposit is a reasonable way to secure the Disposal Operator's obligation to pay liquidated damages under the contract.

Q(53)(b) *If the damage deposit can be justified, what interest rate will apply and what are the provisions for paying Contractor earned interest on all amounts in the account?*

A: See changes to the Disposal Agreement.

Q(54): *In the draft agreement for disposal, Section 13 we would suggest two modifications to this section. First, the contractor should have the ability to assign the Agreement to any wholly owned subsidiary of its parent company only upon notice to the County, as long as the parent company guaranty remains in effect. Second, to the extent that there is ever a request to assign this Agreement to a third party, the County's consent to such assignment should have a reasonableness limitation placed on it.*

A: See changes to the Disposal Agreement.

Q(55): *If a bidder is bidding at the 30% level, will the same performance bonds of \$1 million be required for each service as required for the 100% level (Section 4.8)?*

A: Yes.

Q(56)(a): *Is the successful bidder obligated to use existing tipping floor personnel, specifically tractor operators (Section 4.9.1)?*

A: Yes.

Q(56)(b) *If the successful bidder is obligated to use existing personnel, who is responsible for any damage to contractor's trailers?*

A: . Based on the Transport Contractor's control over acceptance of solid waste, as described in Section 4.06.1 of the Transport Agreement, the Transport Contractor has the right to inspect all solid waste before it is delivered to the Transport Contractor. The Transport Contractor also has the right to reject unpermitted materials. Therefore, it is the Contractor's responsibility for any damage to Contractor's trailers.

Q(56)(c): *For example: The tractor operator loads the transfer trailers with heavy materials which result in overloaded trailers and damage to the walls of the trailers, who pays for the trailer repair?*

A: See answer to Q(56)(b) above. This would be a matter between the Transfer Company and the Transfer Station Operator.

Q(57)(a): *If one is bidding option three, Section 4.11.1, combined transportation and disposal service, for only the 30% throughput level does the tonnage apply as it appears in Table A2 as the transportation requirements, i.e. transporter to handle all the Annapolis and Guerneville Transfer Stations waste but only half of the Healdsburg and Sonoma Transfer Stations waste, and only a small portion of the Central Disposal Site?*

A: For purposes of preparing the proposal, assume the given distribution of waste. However, the allocation of waste from the County's disposal sites for the 30% throughput level may be adjusted at a later time during negotiations based on the submittals received in response to the RFP.

Q(57)(b): *Is this the intent of the County or some other breakdown?*

A: See response to Q(57)(a).

Q(57)(c): *How is the transport determined on a per load or daily basis, when there is more than one transporter providing service at a site such as Healdsburg, etc. Instead of splitting the tonnage hauled by each transporter at the Healdsburg and Sonoma Transfer Stations at the 30% level as shown in Table A2, can the award be made at the 30% level so that a transporter will haul 100% of a particular transfer stations material which will allow for more efficiency?*

A: Under such a scenario, it is not the County's intent to have more than one Transfer Company serving a specific disposal site.

Q(58): *Does all waste have to be cleared from the floor everyday at the transfer stations?*

A: The Transfer Station permits require removal of solid waste within 24 hours (Healdsburg), 48 hours (Guerneville, Sonoma) or 5 days (Annapolis) of delivery, allowing waste to remain on the floor at the end of the day. The current permit for the Central Tipping Building does require all solid waste to be removed from the floor at the end of the day. However, the County intends to revise its permit for the Central Tipping Building to require removal within 48 hours of delivery. For purposes of the RFP, assume that all Sonoma County solid waste facilities will allow waste to remain on the floor at the end of the working day.

Q(59): *Inflation has been generally low over the last several years, but the 10-year trend suggests an inflation rate of (?). Would the County consider raising the cap on the CPI adjustment beyond the stated 3 percent? (This would also apply to both agreements.)*

A: No change will be made to the Disposal Agreement at this time. Should a proposed modification of this section affect a Proposer's pricing, the County would encourage the Proposer to submit two proposals – one based on no modification and one based on proposed modifications. For purposes of the five (5) and ten (10) year proposals, the proposal should assume a cap on the CPI of five percent (5%).

3. ATTACHMENTS

The following attachments include changes made as referenced in this Addendum:

- Exhibit A: Transportation and Disposal Price Form
- Exhibit C-1: Transport Services Agreement
- Exhibit C-2: Disposal Services Agreement

Exhibit C-1 and C-2 also include the following agreement exhibit that was not included in the original RFP:

- Performance Bond.