

August 16, 2018

**BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA**

**IFB #Y18-1053-KB
RECYCLING AND WASTE DISPOSAL SERVICES**

ADDENDUM NO.7

This addendum is hereby incorporated into the Invitation for Bids document. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Deletions are denoted by ~~strike through~~ and additions via underline.

THE SOLICITATION IS CHANGED AS FOLLOWS:

- A. Special Terms and Conditions, Article 21, PRICE ESCALATION DE-ESCALATION (CPI), is applicable to the non-recyclable waste program only. The index utilized shall be All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by the United States Department of Labor, Bureau of Statistics.
- B. Special Terms and Conditions, Article 21.1, RECYCLING PRICE ESCALATION DE-ESCALATION is added as follows:

21.1 RECYCLING PRICE ESCALATION DE-ESCALATION

Written request for price adjustments may be made every three (3) months, no less than 30 days prior to the requested effective date. Any increased price adjustment(s) must be accompanied by written justification attesting that the request is a bonafide cost increase to the vendor. This justification shall be accompanied by market data concerning the recyclables industry that is verifiable. The base period for any requested adjustment shall be the beginning of the latest period during which an adjustment may have been made. For example, if annual adjustments is requested under a three-year contract and none is requested after the first two years, the base period for an adjustment effective the third year shall be the beginning of the second year. The maximum allowable increase shall not exceed 4%. All price adjustments are subject to the approval of the Manager, Procurement Division and shall be formalized by written amendment to this contract.

**THE FOLLOWING QUESTIONS AND ANSWERS IN ACCORDANCE WITH
ADDENDUM #2 DATED JUNE 4, 2018:**

- 1. **Question:** Could you please confirm the exact number, of each type of container needed for each locations? It was not clear on Attachment A.

Answer: See Revised Attachment A, Addendum 3 – Container Size/Pick-Up Frequency Schedule has been revised to reflect container sizes for each Lot.

2. **Question:** Section 3 – Specifications/Scope of Services: Section 8, Item C, Can you please confirm that the Contractor will only be responsible for providing two (2) 34 cubic yard self-contained compactors for this project?

Answer: The estimated total compactors is four (4) 34-cubic yard self-containers. Containers and schedules will be finalized with the end user after contract award. These quantities and schedules are subject to change based on the needs of the County.

3. **Question:** Section 3 – Specifications/Scope of Services: Section 10, Item A Recycling Services, Given the current market conditions in the recycling industry, would the County accept modifications to the list of acceptable items?

Answer: Recycling services have been revised according to Orange County's Recycling Program Standards outlined in Addendum #4, Page 2, Item #10. Please see the revised recycling contract language. At the discretion of Orange County, in accordance with industry practices and specifications, the list of approved recyclable materials is subject to change via an amendment.

4. **Question:** Section 3 – Specifications/Scope of Services: Section 10, Item A Recycling Services, To better support the future of recycling, would the County consider implementing a "processing fee" on a per cubic yard basis, for all routine front load recycling services. It would be included in the monthly fee but adjusted annually with the commodity values in the market.

Answer: No, See modifications to Price Escalation above as items A & B.

5. **Question:** Section 3 – Specifications/Scope of Services: Section 10, Item B Material Recycling Facility (MRF), this section makes reference to Contractor owned MRF's. Does this mean that only companies who own MRF's may participate?

Answer: No, the Contractor does not have to be the owner of the MRF. The MRF shall meet the standards for the Material Recycling Facility (MRF) as outlined on Page 42, Section B – Material Recycling Facility (MRF) #3

6. **Question:** Section 3 – Specifications/Scope of Services: Section 10, Item C Contamination, Given the current state of the recycling industry, Item 1 and Item 2 are no longer sustainable. Will the County modify the language to allow for rejection of containers that consist of more than 10% contamination? The Contractor would reject the container and report it to the purchasing department for correction, or approval to dump with the garbage truck. Extra dump fees would apply.

Answer: For sites with 10% or more contamination, the Contractor may reject the load only if the Contractor can prove it is more than 10% or more

contaminated. Contamination shall be documented with a written explanation on why it was rejected and date stamped photographs showing the contamination. Documentation shall be sent to the respective department and copy the Facilities Management Contract Administrator. A new delivery order or change order to current delivery order shall be issued to the Contractor by the department to pick-up with garbage truck. Cost of pick-up with garbage truck for contaminated loads shall be the same as documented on the bid response form for extra pick-ups for the size container. No service shall be provided without a delivery order unless it is for emergency services.

7. **Question:** Are the recycling containers that are located at Parks & Recreation locations accessible to the general public?

Answer: Yes, recycling containers located at Parks and Recreation locations are accessible to the general public.

8. **Question:** Small and Minority Business Enterprise (MBE), Women Business Enterprises (WBE), and Labor Surplus Area Firms. Page 16, Would the County agree to accept MBE and WBE certifications from any other agencies or entities for this IFB, including Orange County's own Business Development Division?

Answer: As long as the firm is considered a "Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms," they may be able to be utilized for this bid. Orange County is not permitted to give local preference under federal grants.

9. **Question:** Indemnity. Page 12, Section 32: Indemnification should be limited to Contractor's fault. Would the County please modify the language as follows:

To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses including attorney's fees of any kind or nature whatsoever to the extent arising directly or indirectly out of or caused in whole or in part by any act or omission of the Contractor or its subcontractors, anyone directly ~~or indirectly~~ employed by them, or anyone for whose acts any of them may be liable; excepting those negligence or willful misconduct ~~acts or omissions~~ arising out of the sole negligence of the County.

Answer: The provision remains unchanged.

10. **Question:** Contract Claims. Page 14, Section 41: Would the County please remove "No claim shall be accepted after final payment of the contract." This language is not customary in a waste collection and recycling contract and may be better suited for construction projects or product purchases.

Answer: The provision remains unchanged.

11. **Question:** Contract Claims. Page 14, Section 41: Would the County please remove the language stating that the Manager's decision is final. We would prefer the right to appeal to a court of local jurisdiction.

Answer: The provision remains unchanged.

12. **Question:** Contract Claims. Page 14, Section 41: In the last paragraph, it states that contractor must continue to perform, even if a claim is pending. Will the County please modify the language so the Contractor has the right to suspend or terminate if the County is not paying.

Answer: The provision remains unchanged.

13. **Question:** Force Majeure. Page 19: The language states that the County can terminate if a force majeure event lasts longer than 48 hours. Would the county agree that the Contractor may halt service, for a greater period of time, if as a result of the event, the delivery of service poses a danger to our employees or county residents?

Answer: Page 19, Section 48-4. If the Contractor's performance is delayed pursuant to this section, the County may, upon written request of the Contractor, agree to equitably adjust the provisions of this contract, including price, performance, and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit the County's right to terminate for convenience.

14. **Question:** Termination for Default. a. Page 24: Would the County agree to also grant the Contractor the right to terminate if the County is in default? Could you clarify that termination may only occur for breaches of material terms or failure to substantially comply so to eliminate any termination for a minor breach? Page 36, subsection E: Contractor only has 24 hours to correct nonperformance issue or the County can correct. Would the County agree to give the Contractor a reasonable opportunity to correct?

Answer: The provision remains unchanged.

15. **Question:** Safety and Protection of Property. Page 26; Page 36, Subsection B: Would the County please add the following statement to the language?

"Notwithstanding the foregoing, the Contractor shall not be responsible for any damage to the pavement, curbing or other driving surfaces resulting from the weight of vehicles used in providing the services, except for damage caused by the negligence or willful misconduct of Contractor."

Answer: The provision remains unchanged.

16. **Question:** Fines Levied for Violation of Law. Page 35, Section 3: Can you please modify the language to exclude the Contractor from fines levied as a result of

Unacceptable Waste in the waste stream? Contractor has no control over the type of materials the County places into our containers.

Answer: Section 3 - Performance Requirements A remains unchanged. For clarity, the Contractor shall perform in accordance with the Federal, State, City, and Orange County standards for the disposal of waste and recycle.

17. **Question:** Equipment. Page 38, Section I: The language states that the County will not assume responsibility for any loss or damage to Contractor's equipment. Would the County agree that if the damage is caused by their negligence or willful misconduct, they would pay for the repair?

Answer: The provision remains unchanged.

18. **Question:** Recycling. Will the County please include the following recycling language where possible?

Additional Terms for Recycling Services.

a. Rates. The rates for Recycling Services shall consist of a Monthly Collection Charge, as set forth on Exhibit X, plus the Recycling Processing Charge. The "Recycling Processing Charge" is derived by subtracting Republic's Processing Rate and Residual Costs from its Commodity Sales, which are also set forth on Exhibit X.

Monthly Collection Charge + Recycling Processing Charge (Commodity Sales – Processing Rate – Residual Costs)

b. "Commodity Sales" means the average amount Republic receives per 12-month period on the sale of Recyclable Materials processed at the facility receiving the County's Recyclable Material. "Processing Rate" means the current rate Republic charges to process Recyclable Materials. "Residual Cost" means the average amount it costs Republic per 12-month period to transport and dispose of the non-recyclable, residual material pulled out of the collected stream of Recyclable Materials received at Republic's processing facility.

c. Annual Recycling Adjustment. In addition to the Annual Rate Adjustment, on each anniversary of the Effective Date of the Agreement, Republic shall evaluate, and adjust if needed, the Recycling Processing Charge based on any changes in Commodity Sales, Processing Rates and/or Residual Costs. The Recycling Processing Charge over the most recent twelve month period shall be compared to the last identified Recycling Processing Charge to determine any change. A reduction in Recycling Processing Charge shall result in a decreased price for the Recycling Services for the twelve months after the effective date of the Annual Recycling Adjustment. An increase in Recycling Processing Charge shall result in an increased price for the Recycling Services for the twelve months after the effective date of the Annual Recycling Adjustment. Should unforeseen circumstances cause at least a 20% change in Republic's Recycling Processing Charge, both parties agree to implement a mid-year adjustment to the Recycling

Processing Charge. In the event of any Recycling Adjustment, the County shall have sole discretion to make a lump sum payment to Republic (or receive a lump sum credit) or to pass the Recycling Adjustment through to the rate payers in the County.

d. Specifications for all Recyclable Materials. Recyclable Materials shall comply with any and all specifications provided by Republic in order to meet quality thresholds for commodity markets and be free of contamination. To the extent any type of Recyclable Material received within the County limits is rejected by the recycling facility or is not of the intended quality or grade, Republic will notify the City and the County shall pay any damages, costs, and penalties incurred by Republic due to such rejection or lesser quality or grade, to include transportation and disposal costs for the residual material. If market conditions develop that limit or inhibit Republic from selling some or all of the Recyclable Materials, Republic may (i) suspend or discontinue any or all Recycling services, or (ii) dispose of the Recyclable Materials in a landfill and update the County's rates accordingly."

Answer: No, See modifications to Price Escalation above as items A & B.

19. **Question:** Rate Adjustment. Page 30: Would the County please change the CPI table to All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by the United States Department of Labor, Bureau of Statistics. This index provides a better representation of the cost inflation experienced by our industry.

Answer: See modifications to Price Escalation above as items A & B.

20. **Question:** Insurance Requirements. Page 27: Would the County please accept changes as redlined in the attached "Insurance Requirements (Modifications)"?

Answer: The provision remains unchanged.

ACKNOWLEDGEMENT OF ADDENDA

- a. The bidder shall acknowledge receipt of this addendum by completing the applicable section in the solicitation or by completion of the acknowledgement information on the addendum. Either form of acknowledgement must be completed and returned not later than the date and time for receipt of the bid.
- b. Receipt acknowledged by:

Authorized Signer

Date Signed

Title

Name of Bidder