

City Response to Questions Received from Disposal Services RFP Eligible Proposers

September 21, 2012

#	Citation	Page #	Line #	Proposer Question	City Response
1	RFP Sec. 2.3	2-1	201	If there be cost efficiencies associated with an integrated operation where both contracts are awarded to the same entity, is this alternative cost savings to be proposed as described in section 4.24, p 4-14?	Any such cost savings should be reflected on line 14. (Multi-Service Discount) on Disposal Services Form 2 on page 4-23 of the Disposal Services RFP, following instructions in item #4 (Multi-Service Discount) on Disposal Services Form 2 on page 4-21 of the Disposal Services RFP.
2	RFP Sec. 3.1.4	3-1	311	Does "... (or an equivalent Tonnage amount) ..." mean that the MM&O Collection Contractor can deliver non-City of Oakland-generated residual waste to the Permanent Landfill Disposal Facility?	Yes, in equivalent Tonnage to Oakland-generated Tonnage from the same Processing facility.
3	RFP Sec. 3.1.6	3-2	320	Is the guaranteed disposal capacity based on a best estimate of anticipated residual volumes over the life of the agreement resulting from a progressively improving landfill diversion rate or resulting from all residual volume independent of desired diversion rates?	Disposal Contractor is responsible for Disposal Services for all Disposal Tonnage regardless of actual waste reduction outcomes.
4	RFP Sec. 3.1.6	3-2	321-323	Will the City provide guidance on how the disposal tons will decline from 185,000 to 40,000 by 2030?	Diversion requirements for Collection Services Contracts are established in the RFP process and included in Collection Services Contracts.

#	Citation	Page #	Line #	Proposer Question	City Response
5	RFP Sec. 3.1.9	3-2	338-345	Can we add the State of California AB939 Fee to the list of government fees?	<ul style="list-style-type: none"> Section 3.1.9 (Disposal) of the Disposal Services RFP is revised to read "State of CA (<u>AB 939/1220</u>) Fee." Line 4. on Disposal Services Form 2 on page 4-23 of the Disposal Services RFP is revised as an attachment to this Addendum to read "State of CA (<u>AB 939/1220</u>) Fee." The table of Governmental Fees in Exhibit 1 on page 46 of the Disposal Service Contract is revised as an attachment to this Addendum to read "State of CA (<u>AB 939/1220</u>) Fee."
6	RFP Sec. 5 (Contract) Exhibit 1	46		Can we add the State of California AB939 Fee to the list of governmental fees?	See City Response to Question #5 above.
7	RFP Sec. 4.26 (Forms)	4-23 Form 2		Can we add the State of California AB939 Fee to the list of Government Fee Elements?	See City Response to Question #5 above.
8	RFP Sec. 3.1.10.2	3-3	356-364	We assume the \$360,000 city franchise fee is an annual amount, and that the monthly payment will be \$30,000; is that correct? Is this franchise fee in addition to any franchise fees associated with the collection contract? The franchise fee will continue to increase as disposal volumes, and revenue, may decrease. Would the city consider indexing the franchise fee to actual tonnages disposed of?	The City would not consider indexing the franchise fee to actual Disposal Tonnages.
9	RFP Sec. 4.21	4-5	567	What is the City's definition of "subcontractor"?	The City will issue an addendum adding an Article to the Disposal Contract on subcontracting.

#	Citation	Page #	Line #	Proposer Question	City Response
10	RFP Sec. 4.22.3	4-7	635	RFP requires that “Two (2) corporate officers must execute proposals by corporations in the corporate name.” Does this requirement apply solely to Disposal Services Form 1, which provides for two signatures?	Yes.
11	RFP Sec. 4.22.3	4-7	636	RFP further requires that “One signature must be from the chairman, president, or vice-president and the other signature must be from the chief financial officer, assistant treasurer, secretary, or assistant secretary”, while Disposal Services Form 1 states “both President and Secretary must sign the form”. Please provide clarification as to which corporate officer signatures will be acceptable on Disposal Services Form 1.	<p>The Signature Instructions on Form 1 (Disposal Tipping Fee Proposal and Payment to City: Summary and Signature) on page 4-20 of the Disposal Services RFP are revised as an attachment to this Addendum.</p> <p>Delete the text immediately below:</p> <p>“If business is a CORPORATION, name of the corporation should be listed in full and both President and Secretary must sign the form, OR if one signature is permitted by corporation by laws, a copy of the by laws shall be furnished to the City as part of the proposal.</p> <p>If business is a PARTNERSHIP, the full name of each partner should be listed followed by d/b/a (doing business as) and firm or trade name; any one partner may sign the form. If the business is an INDIVIDUAL PROPRIETORSHIP, the name of the owner should appear followed by d/b/a and name of the company.</p> <p>If business is a JOINT VENTURE, the full name of each joint venturer should be listed in full and each joint venturer must sign the form, OR if one signature is permitted by the joint venture agreement or by laws, a copy of the agreement or by laws shall be furnished to the City as part of the proposal.”</p>

#	Citation	Page #	Line #	Proposer Question	City Response
					<p>And replace the deleted text with:</p> <p>“Two (2) corporate officers must execute proposals by corporations in the corporate name. The original proposal submitted must be signed as an original. One signature must be from the chairman, president, or vice-president and the other signature must be from the chief financial officer, assistant treasurer, secretary, or assistant secretary. The state of incorporation shall be shown below the signature.</p> <p>Proposals by partnerships must be executed in the partnership name and signed by a partner. His/her title must appear under his/her signature, and the official address of the partnership must be shown below the signature.</p> <p>Proposals must be signed by an individual(s) authorized to negotiate and bind the proposer contractually.”</p>
12	RFP Sec. 4.22.3	4-7	638	RFP further requires that “The corporate address and state of incorporation shall be shown below the signature.” Disposal Services Form 1 does not accommodate the entry of a corporate address. Please clarify how a corporate address should be entered on Disposal Services Form 1.	<p>Section 4.22.3 (Preparation of Proposals) of the Disposal Services RFP is amended as follows:</p> <p>“Two (2) corporate officers must execute proposals by corporations in the corporate name. The original proposal submitted must be signed as an original. One signature must be from the chairman, president, or vice-president and the other signature must be from the chief financial officer, assistant treasurer, secretary, or assistant secretary. The corporate address and state of incorporation shall be shown below the signature.</p> <p>Proposals by partnerships must be executed in the partnership name and signed by a partner.</p>

#	Citation	Page #	Line #	Proposer Question	City Response
					His/her title must appear under his/her signature, and the official address of the partnership must be shown below the signature. <u>Proposals must be signed by a corporate officer authorized to negotiate and bind the proposer contractually.</u>
13	RFP Sec. 4.23.1.1	4-8	659	To whom should the proposal cover letter be addressed?	The proposal cover letter shall be addressed to: Susan Kattchee, Project Manager.
14	RFP Sec. 4.23.3.4			Republic Services, Inc., serving as indirect parent company to the Keller Canyon Landfill Company, requests a limitation on the litigation historical data to include only (a) lawsuits (b) in California against the proposer (Keller Canyon Landfill Company), its direct parent (Allied Waste Systems, Inc.) and itself (except for criminal, which can be nationwide) (c) relating to the operations of disposal facilities, (d) where more than \$100,000 was in controversy and (e) excluding risk management matters such as vehicular accidents and etc. This request is made in order to limit the information being provided to only that which is pertinent to the matter at hand, otherwise due to its national status Republic may provide you with a long list of matters for review -- most of them completely unrelated to the RFP.	The City will address in a future addendum.
15	RFP Sec. 4.23.4			Republic Services, Inc. requests an allowance for submitting its corporate audited statements in accordance to Section 4.23.4, Statement of Financial Qualifications, of the RFP. In supplying the corporate audited statements, Republic Services is providing a total financial picture and associated securities through its entire operation.	The City will address in a future addendum.

#	Citation	Page #	Line #	Proposer Question	City Response
16	RFP Sec. 4.23.5.1	4-12	803	RFP, regarding the “Disposal operations plan” states, in part, “This must address items as listed above ...” What/where are the “items as listed above”?	Section 4.23.5.1 (Disposal Operations Plan) of the Disposal Services RFP is amended as follows: “Proposers shall provide a detailed Disposal operations plan that presents the specific Disposal programs that will be implemented. This may be appended as part of the signed Disposal Services Contract. This must address items as listed below <u>above</u> and also include: ”
17	RFP Sec. 4.23.5.1.1.5 4.23.5.1.1.11	4-12	815 827	Both RFP sections address proposer’s disposal facility capacity and ability/commitment to accommodate the City’s requirements. What distinguishes the City’s expectations for the content of proposer’s response to each of these two RFP elements?	RFP Section 4.23.5.1.1 (5) pertains to the proposer providing information on the permitted and physical capacity and demonstration that the facility is able to accommodate the City's disposal needs. RFP Section 4.23.5.1.1(11) pertains to the proposer making a written commitment guaranteeing capacity to meet the City's disposal needs.
18	RFP Sec. 4.23.5.1.1.8	4-12	821	What constitutes acceptable documentation of compliance with all applicable regulations?	Acceptable documentation of compliance with regulations may include, but is not limited to, a table listing all permits with issuance and expiration dates.
19	RFP Sec. 4.23.5.1.1.15 4.23.5.1.1.21 4.23.5.1.4.4	4-13 4-14	843 856 876	These three RFP elements all address proposer’s efforts and procedures to prevent prohibited materials from being landfilled. What distinguishes the City’s expectations for the content of proposer’s response to each of these three RFP elements?	Separately describe proposer's efforts & procedures for each class of prohibited materials, and all aspects of load checking as specified in the Disposal Services RFP.
20	RFP Sec. 4.23.5.1.1.18 4.23.5.1.1.20 4.23.5.1.2.4	4-13	852 855 865	These three RFP elements all address proposer’s disposal contingency options and plan. What distinguishes the City’s expectations for the content of proposer’s response to each of these three RFP elements?	<ul style="list-style-type: none"> RFP Section 4.23.5.1.1(18) pertains to the proposer's contingency plans when the prime Disposal option is not available. RFP Section 4.23.5.1.1(20) pertains to the proposer's contingency plans related to "emergency services" as described in Disposal Contract Sections 5.05 & 5.19.

#	Citation	Page #	Line #	Proposer Question	City Response
					<ul style="list-style-type: none"> • The RFP Section 4.23.5.1.2 is amended as follows: <ol style="list-style-type: none"> 1. Staffing safety requirements, including physical, drug, and alcohol testing requirements; 2. Hazardous waste, e-waste, and universal waste management protocol; 3. Design, permitting and operating features that protect and monitor public health and safety and environmental quality; 4. Contingency plan for disposal in emergency events; and 5. Health and safety management procedures.”
21	RFP Sec. 4.23.5.1.1.19 4.23.5.1.3.2	4-13 4-14	853 870	These two RFP elements address proposer’s procedures for inspection, sampling and accounting for waste by jurisdiction. What distinguishes the City’s expectations for the content of proposer’s response to each of these two RFP elements?	Section 4.23.5.1.3 (Reporting) of the Disposal Services RFP is amended as follows: <ol style="list-style-type: none"> 1. Detailed material Tonnage monitoring and reporting program, including electronic transmittal of reports to City; 2. Procedures for inspecting, sampling and accounting for waste by jurisdiction; and 3. Process for reporting complaints and dispute resolution to the City.”
22	RFP Sec. 4.23.5.1.4.6 4.25.5	4-14 4-17	878 985	In describing the “agreement terms” of proposer’s union agreement are there specific details the City wishes the proposer to describe or does the City wish to have a summary of all elements of the contract?	The City expects a summary of contract elements.
23	RFP Sec. 4.24 & 4.25.1	4-14 & 4-15	907- 914 & 929- 934	Section 4.24 states "...once the proposals are submitted, the City is under no obligation to accept any exceptions or alternatives while the proposer is obligated to accept an award of the Disposal Services Contract under the terms and conditions as stated in that Disposal Services Contract." However, Section	The City will respond in a future addendum.

#	Citation	Page #	Line #	Proposer Question	City Response
				4.25.1 states "If for any reason during the course of negotiations with the selected proposer, the City determines that a reasonable Contract cannot be negotiated, the City reserves the right to suspend negotiations with the selected proposer, contact the next ranked proposer and begin negotiations for the purpose of signing a Disposal Services Contract with that selected proposer." There seems to be a conflict between these two provisions, as the second clearly indicates that the City and selected proposer will negotiate a final contract. Proposer feels this negotiation process is important since not every contract detail can be addressed during a RFP process of this magnitude, and would like clarification that such process will occur.	
24	RFP Sec. 4.26 (Forms)	4-21 Form 2		Regulatory and other fees can be imposed or changed by various agencies periodically. Will the Contractor be allowed to include newly imposed fees as the information becomes available if it is not known and specifically described at the time of proposal?	Yes. See the note on item #1 (Government Fee Element) on Disposal Services Form 2 on page 4-21 of the Disposal Services RFP.
25	RFP Sec. 5 (Contract)	3	91-96	Proposer would like clarification that this definition would include the adoption, promulgation, or modification of any rule, law, regulation, etc. that occurs after submittal of proposals, but before the effective date of the contract. Proposer feels such occurrences should be considered "changes in law" because they could otherwise materially impact Proposer's obligations without Proposer being fairly compensated; our proposal can only be based on applicable law at the time of proposal submission, and any changes thereafter should be considered as a basis for a Proposer rate adjustment.	See City Response to Question #24 above.

#	Citation	Page #	Line #	Proposer Question	City Response
26	RFP Sec. 4.26 (Forms)	4-23 Form 2	Rows 1-3	Will the City provide the amounts / rates of the current Alameda County fees that proposers are expected to include?	No. The City expects proposers to conduct due diligence in preparing proposals.
27	RFP Sec. 5 (Contract) Recitals	1	6	Will the disposal contractor be responsible for the residue from the recycling contractor? How does the City intend to track the success if not all material is destined for same landfill?	Disposal Services include accepting Residue from the City's Residential Recycling Contractor. However the Residential Recycling Contractor is not required to deliver Residue to the Disposal Facility.
28	RFP Sec. 5 (Contract) Article 5 §5.14	16	690	Contractor is required to include reporting of residential Recyclable Materials Residue disposed, whereas, beginning at Line 6, Page 1 of the Contract, residential Recyclable Materials Residue is not included among the materials to be received by the Contractor. Please explain this apparent contradiction.	See City Response to Question #27 above.
29	RFP Sec. 5 (Contract) Article 1 §1.19	4	161	Why would a power outage not be considered a force majeure item? Such events have occurred on occasion and are clearly beyond Proposer's control. Also, Proposer requests that the definition of "force majeure" include threatened force majeure events that are reasonably likely to occur. For example, if Proposer becomes aware of an impending natural disaster, it must be able to take precautions which may include suspension of certain activities under the Contract.	The City would expect the Disposal Facility to have back-up power for essential functions. The City does not expect that a power outage would cause the interruption or discontinuance of CONTRACTOR'S ability to accept and Dispose Mixed Materials, Garbage and Mixed Materials Residue. The City feels that the definition of force majeure is appropriate.
30	RFP Sec. 5 (Contract) Article 4 §4.01	9	390	What is the disposal contractors remedy for collection of past due payments from City's MM&O contractors?	The City will respond in a future addendum.
31	RFP Sec. 5 (Contract) Article 5	15-16		a. How are "reasonable business efforts" determined with respect to resisting changes, alterations and amendments to permits?	The City will respond in a future addendum.

#	Citation	Page #	Line #	Proposer Question	City Response
	§5.13			b. Regarding Section 5.13.2, it appears the City can terminate the agreement where (i) Proposer cannot accept material due to force majeure, (ii) Proposer proposes to accept material at an alternate facility, and (iii) MM&O Collection Contractors consequently pay additional transportation costs to deliver material to Proposer's alternate facility. Is this the City's intent? If so, it would essentially eliminate any force majeure protection to Proposer. If Proposer offers to pay such transportation costs, please confirm that the City would not have the option to terminate?	
32	RFP Sec. 5 (Contract) Article 5 §5.14	16	689- 692	The contract requires reporting by Contractor separately of each of the materials listed. Will the City require the MM&O contractor to haul each of these materials separately to the disposal facility? If materials are transferred from the MM&O contractor's transfer station it would follow that several of these streams would be commingled in a single transfer load.	Section 5.14 (Reporting) of the Disposal Services Contract is amended as follows: "Beginning on July 1, 2015, and monthly during the term of this Contract, CONTRACTOR shall provide a complete and accurate monthly report no later than twenty (20) calendar days after the end of the reporting month. Therefore, the first report will be due no later than August 20, 2015 for the reporting month of July 2015. The report shall be prepared in an electronic format in a form approved by the Contract Manager and shall, if requested by CITY, include data that can be uploaded by CITY. The report shall include the total Tonnage of Mixed Materials, Garbage and Residue generated in the CITY that was accepted and Disposed at the Disposal Facility and shall also list other applicable information, including date of receipt, inbound and outbound time, inbound and outbound weights of vehicles, Disposal Tipping Fee charged, vehicle identification number, vehicle type, type of

#	Citation	Page #	Line #	Proposer Question	City Response
					material, hauler identification; type, and weight, separately for each of the following categories for material Collected by the Collection Contractor(s) within CITY: residential Garbage, Mixed Materials, Mixed Materials Residue, residential Organic Materials Residue, or residential Recyclable Materials Residue, commercial Garbage, Mixed Materials, or Residue, and CITY Garbage, Mixed Materials, or Residue”
33	RFP Sec. 5 (Contract) Article 5 §5.20.1	18	761-765	If the City requests a modification of existing services, but does not approve Contractor’s proposal, what are its options, particularly in light of Section 5.23 which limits the City’s rights to contract with third parties to those situations involving services “not otherwise contemplated under this Contract...“?	Per Contract Sec. 5.20.4, if the City and Contractor cannot agree, the City can choose not to implement the proposed change.
34	RFP Sec. 5 (Contract) Article 5 §5.21	19		Please expand on the City’s expectations regarding the Contractor’s segregating Recoverable Materials. Does this include mining of Garbage, Mixed Materials and Residue? Would this be done at a transfer station, or the landfill?	The City has no specific expectations regarding the Contractor’s segregating Recoverable Materials. Proposers may include such activities at the Facility in submitted proposals, and such alternatives will be evaluated on their merits.
35	RFP Sec. 5 (Contract) Article 5 §5.22	19	834	How will revenue generating resource potential be compared among each proposer’s disposal proposal if not included in the proposals?	Proposers may include revenue-sharing alternatives in submitted proposals, and such alternatives will be considered in making recommendations.
36	RFP Sec. 5 (Contract) Article 5 §5.22	19		Please expand upon the City’s intent regarding such revenue sharing?	See City Response to Question #24 above.

#	Citation	Page #	Line #	Proposer Question	City Response
37	RFP Sec. 5 (Contract) Article 5 §5.24	19		Assuming Proposer's proposal is selected, please confirm that the City intends to continue delivering such material to the transfer station, not the landfill. What are the City delivered tons?	The City cannot identify where City Delivered Materials may be delivered until selection of the MMO Contractor. Current City Delivered tons are listed in RFP Table 2-1 as "City-Generated and Hauled" under "Franchised Tons Collected".
38	RFP Sec. 5 (Contract) Article 6 §6.01.1.2	20-21		In surveying "posted" disposal tipping fees at landfills within a 50-mile radius, we assume that means the gate rate, not the contract rate; is that correct? Will factors such as type of material, duration of contract, private v. public contract, waste volumes, etc. be considered when determining a price adjustment? Proposer feels this provision only works when an apples to apples comparison is done. These questions would also apply to Section 6.01.1.4. Finally, Proposer believes it has confidentiality provisions in several agreements with private entities which preclude Proposer from providing the City access to such agreements. Please confirm the City would not request Proposer to violate such confidentiality provisions.	The City will respond in a future addendum.
39	RFP Sec. 5 (Contract) Article 6 §6.04.2.2	22	972-973	Who determines whether (and how much) an increase in disposal costs is attributable to Contractor's negligence?	This would be determined based on investigation at the time it becomes an issue.
40	RFP Sec. 5 (Contract) Article 6 §6.04.4	23	1005	How do we determine the amount of material "delivered from CITY"? Is it material delivered by the City, from the franchisee, etc.?	Section 6.04.4 (Proportionate Share of Disposal Facility Costs) of the Disposal Services Contract is revised as follows: "To the extent that the net increase in costs of complying with Changes in Law are attributable to material already in place at the Disposal Facility at the time such Change in Law occurs, then CITY'S proportionate share of the present value of such increases in costs shall be determined by

#	Citation	Page #	Line #	Proposer Question	City Response
					<p>multiplying such increase in costs by a fraction, the numerator of which is the amount of material as of the time of increase is computed that is deposited at the Disposal Facility which was delivered from CITY <u>under this Contract</u> and the denominator of which is the total amount of material then deposited at the Disposal Facility from all sources.”</p>
41	RFP Sec. 5 (Contract) Article 7 §7.01	25-26		This general indemnity provision should be modified to make it clear that the Contractor is not indemnifying the City for claims based on the City violation of any law in setting disposal rates, including but not limited to Prop. 218, etc.	The City will respond in a future addendum.
42	RFP Sec. 5 (Contract) Article 7 §7.02	26		Proposer requests that this section be modified to exclude claims related to hazardous material generated or delivered by the City, and claims related to City negligence, willful misconduct or breach of the agreement.	The City will respond in a future addendum.
43	RFP Sec. 5 (Contract) Article 10 §10.01	31		Would the City consider a limited force majeure period of four (4) Work Days in the event of labor unrest (e.g., strike or walkout, but not including a lockout)?	The City will respond in a future addendum.
44	RFP Sec. 5 (Contract) Article 24	38-39		Would the City consider a limited force majeure period of four (4) Work Days before assessing liquidated damages in the event of labor unrest (e.g., strike or walkout, but not a lockout).	The City will respond in a future addendum.
45	RFP Sec. 5 (Contract) Article 25 §25.02	40-41		This provision essentially prevents lockouts unless the City approves the replacement plan. However, under Proposer’s collective bargaining agreement, and as a matter of law, lockout is a labor position to which we have a right. This proposed language would weaken Proposer’s position with the union and affect our	The City will not consider rate increases based on increases in wages and benefits that Disposal Contractor feels are necessary to avoid labor unrest.

#	Citation	Page #	Line #	Proposer Question	City Response
				bargaining position. Would the City consider rate increases based on the increases in wages and benefits we would need to pay to avoid labor unrest?	
46	RFP Attachment 1B	1		Does the 2,866 tons of landfill recycling residue include just the residue from residential recyclables and residue from the 4,414 gross tons of commercial recyclables?	The 2,866 tons of landfill recycling residue includes only residue from residential recyclables collected in the half of the City currently served by Waste Management of Alameda County, to the best of the City's knowledge.
47	RFP Attachment 1B	2		Residential recycled tons for year 2011 shows 17,838 tons. Is this net after residue?	No.
48	RFP Attachment 1D Table 2	1		The second column header states "tons" but the data included on the three rows of the table are presented in terms of cubic yards (volume). Should the second column header state "cubic yards".	Yes. See revised Table as an attachment to this Addendum.