

**CITY OF NAPLES  
PURCHASING DIVISION  
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NAPLES, FLORIDA 34102  
PH: 239-213-7100    FX: 239-213-7105**

**ADDENDUM NUMBER 2**

NOTIFICATION DATE:	BID TITLE:	BID NUMBER:	BID OPENING DATE & TIME:
07/30/12	Disposal of Bio-solids to a Composting Facility	059/12	08/24/12 2:00PM

**THE FOLLOWING INFORMATION IS HEREBY INCORPORATED INTO,  
AND MADE AN OFFICIAL PART OF THE ABOVE REFERENCED BID.**

**Below please find clarification to the Bid document.**

- 1) Section 23. General Conditions, LIABILITY: The supplier shall hold and save the City of Naples, its officers, agents, and employees harmless from liability of any kind in the performance of this contract.

Under the Specifications for this ITB, it is inferred that the City will load bio-solids into the contractor's trucks and will utilize the yard jockey to mover trailers that are loaded, being loaded, and will be loaded.

In similar contracts, cities typically provide insurance coverage/assume liability for City-staff operations of the contractor's equipment on the City-owned property. Additionally, cities will typically accept responsibility for loading the bio-solids in accordance with legal over-the-road hauling weight limits and commit to paying any fines or penalties that the contractor incurs as a result of improper loading. In addition, the composting facility is, by permit, limited to accepting bio-solids that are non-hazardous and which meet certain pollutant content standards as published by the Florida Department of Environmental Protection and the US Environmental Protection Agency. We require that the City retain liability for failure to provide bio-solids meeting those conditions (we will be able to provide alternative disposal for such materials if so requested by the City). We respectfully request that the City include these provisions in this Section 23.

**Answer: The City will retain liability if the hauler's trucks exceed over-the-road legal hauling limits that have been loaded by City staff. Additionally, the City will retain liability if biosolids that are generated from the City's facility do not meet pollutant content standards as published by the Florida Department of Environmental Protection and the US Environmental Protection Agency. However, the City will not be liable if the hauler's truck is loaded with additional materials after the City's load.**

**IMPORTANT MESSAGE**

**PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE BID COVER SHEET.**

- 2) Section 29. General Conditions, PRICE ADJUSTMENTS: Any price decrease effectuated during the contract period by reason of marketchange shall be passed on to City of Naples. Price increases are not acceptable.

The services to be provided require the use of over-the-road diesel as well as fuel used at the composting facility, both commodities that fluctuate in cost over time. Additionally, other operational costs generally increase by some amount year-over-year (e.g. labor). In order to adhere to Section 29, bidders will have to project both the rate of inflation and potential costs of fuel over the term of the contract which may result in somewhat elevated pricing during the early years of the term. In similar contracts, we typically see an agreed upon CPI adjustment along with a calculation that may modify pricing based on changes in fuel costs. By establishing base costs for fuel and other expenses and allowing those costs to be adjusted using published indices, the City obtains the most responsive and best current price for the services sought while providing a mechanism whereby it can benefit if these costs go down and its Contractor can remain in a position to offer this important services throughout the term of the contract.

Would the City consider modifying this Section 29 to request bidders provide a formula or formulae for such price adjustments?

**Answer: There shall be no price adjustments during the contract period.**

- 3) Section 37. General Conditions, CERTIFICATES AND LICENSES: The Contractor, at time of proposal, shall possess the correct occupational licenses, all professional licenses or other authorizations necessary to carry out and perform the work required by the City of Naples and Collier County for this project pursuant to all applicable Federal, State and Local Laws, Statues, Ordinances, and rules and regulations of any kind.

Synagro's transportation subcontractor for this proposal is currently transporting the City's bio-solids and therefore has the correct certifications and licenses required to transport bio-solids for the City.

Would you please confirm that the successful bidder's subcontractors, who have the required licenses and certificates, fulfills this condition? Alternatively, would you allow the successful contractor to obtain the licenses and certificates after acceptance of the bid but prior to commencing the actual work?

**Answer:**

- 1. The current contractor currently possesses the required licenses and certificates for the City's hauling requirements.**
- 2. NO – The successful bidder shall have all required licenses and certificates at the time of the bid opening.**

- 4) Section 52. General Conditions, TERMINATION FOR DEFAULT (which reads in part): "The City of Naples reserves the right to terminate the contract if theCity determines that the contractor has failed to perform satisfactorily the work required, as determined by the City. Inthe event the City decides to terminate the contract for failure to perform satisfactorily, the

IMPORTANT MESSAGE

City shall give to the contractor at least seven (7) days written notice before the termination takes effect. The seven-day period will begin upon the mailing of notice by the City. If the contractor fails to cure the default within the seven (7) days specified in the notice...”

We recognize and agree with the need for the City to have a provision to terminate for default. However we do have a few issues with this provision as worded:

- The events that constitute a default are not listed. We are concerned that this could result in even minor issues becoming events of default even though those issues may not materially impact the City and/or the performance of the contract.
- The seven (7) day notice period, which period commences on the date on which the City mailed the notice of default to the contractor, seems excessively short. Assuming this is a calendar day period, one could envision a situation where the City mailed a notice on a Friday afternoon and the notice might not be delivered until Monday or Tuesday of the following week (especially in the case of a federal holiday) resulting in only a three- or four-day cure period.
- The seven (7) day cure period may be inadequate to completely cure the default.

We would be pleased to provide the City language from our other similar contracts which enumerate the events of default, but in any case, request that the City list those events it specifically considers default events. Moreover, we recommend that any notice of default be sent with a return receipt requested and that the seven day notice period commence on the date the return receipt was signed by the recipient. Finally, we recommend that the City consider extending the cure period to a more reasonable 30 days and include a provision that provides for an extension of this period if the contractor is diligently working on curing the default.

**Answer: This provision allows the City to act swiftly to unresponsive haulers, whose actions may cause a violation to the City’s Wastewater Plant’s operating permit.**

- 5) Section 3C. Under second set of General Conditions which begin after the No-Bid Form, TERM OF CONTRACT (which reads in part): “The City may cancel this contract by giving three days prior notice, in writing, to the Contractor.”

The services to be provided include processing the City’s bio-solids at a facility permitted by the Florida Department of Environmental Protection (FDEP). Obtaining such permits and subsequently building a facility that meets the requirements of these permits involves a substantial capital investment. Providing the services requested under what is essentially a three-day contract imposes substantial business risk on the selected contractor. Moreover, three days is insufficient for the service provider to find material to replace the City’s bio-solids (and likely insufficient to enable the City to procure an alternative contract for these necessary services).

We recognize that the City’s Addendum #1 indicates that Section 30 of the General Conditions prevails, but respectfully request that the City eliminate Section 3C, Section 51 under the first set of General Conditions (which provides for a seven day Termination for Convenience), and modifying the controlling Section to extend the Termination for Convenience time period to a more realistic 180 days?

**Answer: Section 51 and 52 of the General Conditions takes precedence.**

IMPORTANT MESSAGE

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- 6) Section 6. Under the second set of General Conditions which begin after the No-Bid Form, Liability (which reads in part): “The successful Contractor will be responsible for the immediate cleanup of all spills, regardless of location or time. In addition, the successful Contractor will be responsible for any damage to City of Naples property or any designated vendor sites caused by the Contractor.”

Further to our first comment, the City will be loading the Contractors trailers and potentially moving those loaded trailer within the plant site. The Contractor cannot be held liable for any spills that occur when City staff members are moving trailers nor can it be liable for any damage to City property or the property of others during these times.

Please consider revising this Section accordingly.

**Answer: The Contractor shall be responsible for damage or loss caused by the Contractor’s staff.**

- 7) Section 2 of the Bid Schedule: Requires the Contractor to provide all labor, equipment, permits, tipping fees and all other associated hauling costs to properly haul, process and dispose of Undigested Wastewater Thickened 1%-1.5% Bio-solids Sludge and asks for this pricing in dollars per ton. We believe this will be more meaningfully reviewed if this bid Section is requested in dollars (or cents) per gallon.

**Answer: The Contractor may provide unit pricing in the form of gallons within Section 2 of the Bid Schedule.**

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