



ADDENDUM # 6

To: 1001-968-71-3114
RFP for: Waste Disposal & Recycling Services

Add the following cost items to the fee page:

- 1. Brush Pickup \$_____ per cubic yard
- 2. Bulk Waste \$_____ per call or \$_____ per cubic yard (includes such items as couches, chairs, tables, book cases and other bulky items).

The following questions have been asked:

Question 1: We take objection to the language in the RFP that allows SAHA the right to terminate the contract for convenience and request deletion of this language. We agree to the language that allows termination for default. Will you waive the language for termination for convenience?

Answer 1: No.

Question 2: We request that the language in Section 2.13 which gives SAHA the right to reduce or increase quantities without prejudice or liability be deleted. In the alternative we request language in the final contract that requires SAHA to reimburse for any monies expended to purchase equipment or materials in reliance upon the scope in the RFP.

Answer 2: SAHA will not remove or alter Section 2.13. SAHA is willing to negotiate on alternative suggestions.

Question 3: Because SAHA is a governmental entity, the information submitted in response to the RFP will be subject to disclosure under the Texas Public Information Act. Accordingly we cannot agree to provide SAHA information on our direct and indirect costs or profit as required by Section 3.5.5 and Section 5.3.1 of the RFP. This information constitutes a trade secret, is confidential and highly proprietary and if disclosed would competitively disadvantage us and could result in irreparable harm.

Answer 3: The information requested must be provided. It may be claimed as proprietary information and clearly marked or stamped as such. The information requested is not significantly different from the disclosures required for publicly held corporations to stockholders.

Question 4: We object to the language in Section 9.8.2 that allows SAHA to seek indirect, consequential, incidental, or exemplary damages. We agree to actual damages caused by our own negligence or willful misconduct, and liquidated damages as me be ultimately agreed to and contained in the final contract.

Answer 4: Section 9.8.2 is revised to read as follows:

9.8.2 The liability of the successful proposer to SAHA (except as to title) arising out of the furnishing of services/goods under the terms of the contract shall not exceed the correcting of the defect(s) in the services/goods provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the



warranty for merchantability and the warranty of fitness for a particular purpose. However, this limitation does not preclude SAHA from seeking actual damages caused by the contractor's negligence or willful misconduct and/or liquidated damages.

Question 5: We cannot agree to indemnify SAHA for SAHA's own negligence or misconduct in whole or in part as set forth in Section 9.18. We agree to indemnify SAHA for damages caused by our negligence or willful misconduct in the performance of the contract.

Answer 5: Section 9.18 is revised to read as follows:

9.18 Indemnity: The Contractor shall indemnify and hold harmless SAHA and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for, or on account of any personal injury or property damage received or sustained by any persons or property growing out of, occurring, or attributable to any work performed under or related to this Agreement, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor. **CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT, SURVIVES TERMINATION OF THIS AGREEMENT, AND APPLIES TO CLAIMS AND LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF SAHA.**

Question 6: We request the sole discretion to approve or deny the ability of other entities to acquire services listed in this RFP under a SAHA Interlocal Agreement as described in Section 9.23 of the RFP.

Answer 6: Section 9.23.1 is revised to read as follows:

9.23.1 SAHA may from time to time enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance SAHA's purchasing power. At SAHA's sole discretion and option, SAHA may inform other Entities that they may acquire items listed in this RFP. The Contractor shall have the sole right and authority to accept or reject the other entities request to utilize the contract. If accepted it will be at the same terms, conditions and prices offered to SAHA.

Question 7: We maintain the right, without penalty or liability, to choose not to enter into a final Contract with SAHA should SAHA fail to include or modify language consistent with our exceptions herein and in our proposal. In such case SAHA shall have no right to damages of any kind against us.

Answer 7: SAHA reserves all rights and privileges accorded it under existing state and federal statues and regulations governing its procurement activities.

Question 8: We cannot agree to and request deletion of Section 9.45 entitled Most Favored Customer.

Answer 8: Section 9.45 is deleted.



Question 9: We request definitions for the terms Recyclables, Waste and Excluded Waste.

Answer 9: Add new Section **3.20 Waste Terms Defined:**

3.20 Waste Terms Defined:

3.20.1 Recyclables- Processing used materials into new products for the consumers which prevents waste of useful materials, therefore reducing consumption of raw materials.

3.20.2 Waste- Unwanted or unusable materials that cannot be recycled for example glossy paper, neon tinted paper, plastic can holders, etc.

3.20.3 Excluded waste- Potentially hazardous waste such as refrigerants, paint, tires, oil, etc. and/or any items that have a hazard label on the product for proper disposal.

Question 10: We request language in the final contract stating that title to and liability for Excluded Materials shall remain with SAHA at all times and that we have no obligation to collect or dispose of Excluded Waste.

Answer 10: SAHA agrees to this request.

Question 11: We request language be inserted into the Contract acknowledging that in the event of tornado, major storm, flood, fire, governmental decree or action, or other natural disaster, the waste material, debris and bulky waste (collectively "storm debris") resulting from such an event is not covered under the contract. We will in the event of a natural disaster provide SAHA with an estimated price and time period to collect and dispose of such storm debris.

Answer 11: Add new **Section 3.21 Storm/Natural Disaster Debris:**

3.21 Storm/Natural Disaster Debris: In the event of tornado, major storm, flood, fire, governmental decree or action, or other natural disaster, the waste material, debris and bulky waste (collectively "storm debris") resulting from such an event is not covered under the contract. Contractor agrees to provide SAHA with pricing and estimated time frames for the removal of such debris.

Question 12: We request the right to terminate the Contract or suspend services under the Contract if SAHA breaches the Contract and fails to cure the breach within a specified period of time after receiving notice to cure.

Answer 12: Add new **Section 9.20.2.1.3:**

9.20.2.1.3 The Contractor may terminate the contract for default with ninety (90) days written notice in whole or in part, if SAHA fails to perform any of the provisions of any contract after receiving written notice from the Contractor of the supposed breach or failure and fails to correct such failures.



818 S. FLORES ST. ① SAN ANTONIO, TEXAS 78204 ① www.saha.org

By: *Charles R Bode*
Charles Bode, Asst. Director of Procurement

Date: July 14, 2010