

During the contract negotiation would the County be willing to discuss the CPI index definition to include either the water, sewer, trash, index or a fixed PI?

During the contract negotiation would the County be willing to discuss a shorter initial term agreement less than 10 years?

Both of these terms can be proposed as part of the package, and the County would be willing to discuss during contract negotiations.

Are all of the loads brought to the intermodal facility by local contractors treated as County waste? In other words, does the County invoice all of the companies that bring containers to the intermodal facility?

No, it does not. However, all companies would need to follow the County flow control ordinance (SCC 12.18.040 <https://www.codepublishing.com/WA/SkagitCounty/#!/SkagitCounty12/SkagitCounty1218.html#12.18.040>).

RFP Section 13 12(D)(3): WMDO respectfully asks if the County will consider limited this disclosure to breach of contract claims that were the subject of litigation or arbitration. As currently written, the disclosure may require inclusion of information claims that were without merit, were relatively minor and/or were not pursued.

The County will be leaving the disclosure requirement as is.

RFP Section 8-12: Please clarify how many printed and electronic copies of the proposal the County wants to be submitted.

The County would request one printed copy and one electronic copy.

Contract Section 1.13: Would the County consider specifying that Addenda to the Contract will be by mutual agreement of the Parties?

Yes.

Contract Section 1.39: In addition to the categories set forth in the definition of "Unacceptable Waste," would the County consider including the following as explicit categories of Unacceptable Waste to allow Contractor to protect its employees, equipment and facilities:

1. Hazardous Waste;
2. Highly flammable substances;
3. Special wastes;
4. Certain pathological and biological wastes;
5. Explosives;
6. Toxic materials;
7. Radioactive materials; and
8. Other materials deemed, in the reasonable discretion of the Contractor, to be dangerous or threatening to health or the environment.

Yes, the County would consider that and the inclusion in the contract may be discussed during contract negotiations.

Contract Section 6.7(A): Would the County consider language that title to Unacceptable Waste stays with the customer and does not pass to Contractor? Liability can result based on ownership of solid waste, and the Contract clearly carves out Unacceptable Waste from the solid waste covered by the Contract. The Contractor may be subject to enforcement actions by regulatory agencies that can have future impacts on its operations. Although the Contract provides that all duties, costs, and liabilities shall not be the responsibility of the Contractor, specifying that title for Unacceptable Waste shall not pass to Contractor is the clearest approach for such materials.

No, not if it could be considered, construed, or argued that the County owns unacceptable waste delivered to the transfer station.

Contract Section 6.8(A): Would the County consider revising the time for securing a performance bond to 30 days after Contract execution or prior to commencing services? As currently written, the Contract would require a prospective Contractor to incur costs to secure a bond prior to having a binding agreement between the parties.

No, the County will require proof of the performance bond before the contract can be signed.

Contract 6.11: Would the County consider deleting the requirement to provide a report of the details of any accident including witness statements within seven (7) days of a workplace accident? The Contractor will be complying with the requirements of Federal and State OSHA and should be able to focus working with those regulatory agencies in the event of a workplace injury.

No, the County will require being notified of accidents and could be sent the same notices as the other regulatory agencies.

Contract 6.15E: Would the County consider a carve-out for Unacceptable Waste in the obligation for the Contractor to be responsible for remediation of hazardous materials? Unacceptable waste may be undetectable by the Contractor prior to being unloaded at the disposal facility. For example, "Except for Unacceptable Materials delivered under this Contract by a Customer, [t]he Contractor shall be solely and separately liable responsible [sic] for the remediation of any hazardous materials that are spilled or discharged on or about the Facilities that are caused by the actions or activities of the Contractor, Contractor's employee(s), subcontractor(s) and/or agent(s).

No.

WM request that the obligations to notify the County of all spills and releases at the landfill, failures to comply with law, inspections and orders are deleted. The Columbia Ridge Landfill is a large operation with many components, and this requirement will provide information wholly unrelated to the services provided to the County. Additionally, as written the reporting requirements to survive the termination or expiration of the Contract in perpetuity.

This can be discussed during contract negotiations.

Would the County consider revising the first sentence to read: "Within twenty-four hours of knowledge the occurrence of an Uncontrollable Circumstance, the knowledgeable party shall notify

the other of the event.” It is possible that a party may have a delay in finding out an Uncontrollable Circumstance event occurred.

The County would agree to that revision.

Contract Section 9.4: Would the County consider revising the section to provide that Contractor shall “diligently pursue insurance proceeds” instead of “collect and apply” to reflect that insurance payments are not guaranteed but the Contractor will pursue them diligently?

The County could modify language to say “diligently pursue collectible insurance proceeds and apply them to the correction or reconstruction of those Facilities. If insurance is not collectible on a loss, Contractor agrees to provide compensate the County for any property damage to the facility caused by the Contractor.”

Contract Section 10.2: Would the County consider qualifying the reimbursable costs of the County (laboratory fees, Transportation and handling costs, and the inspector’s food, transportation, lodging and labor costs) as the reasonable incurred costs? This is consistent with the qualification on the Contractor’s incurred costs associated with Unacceptable Waste.

The County would consider this during contract negotiations.

Contract Section 11.1: Would the County consider that acknowledges that the Contractor’s indemnification obligations shall no apply to the extent of any negligence or willful misconduct of the County? Otherwise, the Contractor may be put in the unfair position of being required to indemnify the County for the County’s own negligence.

Example language: Notwithstanding anything else in this Section 11.1, Contractor’s indemnification obligations shall not extend to any portion of any claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorneys’ fees caused by the willfully tortious, or negligent acts or omissions of the County, its agents, employees, contractors, elected officials or volunteers.

This can be discussed during contract negotiations. The County could add in “The contractor agrees to defend and indemnify the County for liability arising out of the activities of this contract, except for liability arising out of the sole negligence of the County.”

Contract Section 17.1 and 17.2: Would the County consider making any and all warranties and guarantees specifically stated in the Contract? Contractors are required to agree to warranties or guarantees that are “implicit” or that aren’t expressly required by the Contract, which is impossible to determine what it is agreeing to.

No, the County does not provide representations or warranties of any kind whatsoever, express or implied.

The RFP Section 9 states that the two renewal terms are upon mutual agreement. This section of the contract states that the renewal terms are at the County’s discretion. Please confirm that the renewal terms are mutual.

Section 9 is correct. The renewal terms will be mutual.