

WASTE SUPPLY AND DISPOSAL AGREEMENT

By and Between

**LEXINGTON FAYETTE URBAN
COUNTY GOVERNMENT
LEXINGTON, KENTUCKY**

and

WASTE SERVICES OF THE BLUEGRASS, INC.

March 19, 2015

TABLE OF CONTENTS

1.	DEFINITIONS.....	2
1.1	Agreement.....	2
1.2	Intentionally Omitted.....	2
1.3	Commencement Date.....	2
1.4	Contract Documents.....	2
1.5	Council.....	2
1.6	Disposal Site.....	2
1.7	Environmental Laws.....	2 - 3
1.8	Excluded Waste.....	3
1.9	Force Majeure.....	3
1.10	Hazardous Materials.....	3 - 4
1.11	LFUCG Waste.....	4
1.12	Non-LFUCG Waste.....	4
1.13	Premises.....	4
1.14	Recyclable Materials.....	4
1.15	Solid Waste.....	4
1.16	Special Waste.....	4 - 5
1.17	Sludge.....	5
1.18	Ton.....	5
1.19	Transfer Station.....	5
1.20	Waste.....	5
2.	REPRESENTATIONS AND WARRANTIES OF LFUCG.....	5
2.1	Existence and Good Standing.....	5
2.2	Approval and Authorization.....	5
2.3	No Litigation.....	5 - 6
2.4	Covenant for Delivery of Waste.....	6
2.5	Warranty of Clean Environmental Condition.....	7
2.6	Statements.....	7
3.	REPRESENTATIONS AND WARRANTIES OF WSB.....	7
3.1	Existence and Good Standing.....	7
3.2	Approval and Authorization.....	8
3.3	No Litigation.....	8
3.4	Compliance with Laws.....	8
3.5	Statements.....	8
4.	TERM.....	8
5.	RENEWALS.....	8 - 9

6.	OPERATION OF TRANSFER STATION.....	9
6.1	Standard of Operation.....	9
6.2	Specific Operational Obligations.....	9 - 10
6.3	Unloading Rights of LFUCG.....	10
6.4	Obligation to Accept Waste.....	11
6.5	Acceptance of Waste.....	11
6.6	Ownership of Waste.....	11
6.7	Access.....	11 - 12
7.	FEES.....	12
7.1	Fees and Payments.....	12
7.2	Payment.....	12
7.3	Host Fee.....	12
7.4	Intentionally Omitted.....	12
7.5	Methane Gas.....	13
8.	TERMINATION.....	13
9.	EVENT OF DEFAULT.....	13
10.	OBLIGATION TO CURE DEFAULT.....	13
11.	INSURANCE.....	13 - 14
12.	INDEMNIFICATION.....	14
12.1	Risk Management Provisions.....	14
13.	NOTICES.....	14 - 15
14.	ASSIGNMENT AND SUBCONTRACTING.....	15 - 16
15.	FORCE MAJEURE.....	16
16.	CONTRACT DOCUMENTS.....	16 - 17
17.	SLUDGE AND SPECIAL WASTE HANDLING.....	17
18.	SEVERABILITY.....	18
19.	GOVERNING LAW.....	18

20.	BINDING EFFECT.....	18
21.	CONSTRUCTION.....	18
22.	ENTIRE AGREEMENT.....	18

SCHEDULES

	SCHEDULE A – PRICES.....	20
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WASTE SUPPLY AND DISPOSAL AGREEMENT

THIS AGREEMENT is entered into this 19th day of March, 2015, by and between the LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT ("LFUCG"), an urban county government organized and existing pursuant to the laws of the Commonwealth of Kentucky, and Waste Services of the Bluegrass, Inc., ("WSB") a corporation organized and existing under the laws of the Commonwealth of Kentucky.

RECITALS

It is hereby ascertained, determined and declared by the parties that:

A. One of LFUCG's governmental functions is the responsibility to provide its citizens with solid waste disposal services.

B. One method of providing solid waste disposal services is the use of a transfer station for the acceptance of all solid waste generated by Fayette County residents.

C. Accordingly, LFUCG advertised for proposals for the transportation, operation of the transfer station and disposal of the solid waste collected by LFUCG, and WSB was the successful bidder.

D. WSB has agreed to lease and operate a transfer station owned by the LFUCG and located at 1505 Old Frankfort Pike for the acceptance of LFUCG'S waste, and to transport LFUCG's waste to a contained landfill at the prices contained in Schedule A, attached hereto and incorporated herein by reference as if fully set out herein.

NOW, THEREFORE, in consideration of the premises and the mutual agreements

contained herein, including the foregoing recitals, LFUCG and WSB, each intending to be legally bound, agree as follows:

1. DEFINITIONS. In addition to the definitions set forth in the Contract Documents, the following definitions shall apply in this Agreement:

1.1 Agreement: This Waste Supply and Disposal Agreement between LFUCG and WSB.

1.2 Intentionally omitted

1.3 Commencement Date: July 5, 2015.

1.4 Contract Documents: All bid documents and exhibits related to operation of the Transfer Station, including the Request for Proposal #50-2014 (“RFP”) (Exhibit A) , WSB's Response to LFUCG's RFP #50-2014 (Exhibit B), this Waste Supply and Disposal Agreement, Performance Bond (Exhibit C), Certificate of Insurance (Exhibit D), Addenda (Exhibit E), Lease Agreement (Exhibit F) and any other document(s) related to the bid.

1.5 Council: The Lexington Fayette Urban County Council of Fayette County, Kentucky.

1.6 Disposal Site: The properly permitted contained landfill or other properly permitted disposal site or properly permitted facility used by WSB for the final treatment, utilization, processing, or deposition of any acceptable waste received under this Agreement.

1.7 Environmental Laws: Any federal, state, county, or local statute, law, regulation rule, ordinance, code, directive, policy, license or permit, imposing liability or standards of conduct or responsibility concerning or otherwise relating to environmental or health and safety

matters, as amended from time to time and all as now or at any time hereafter may be in effect.

1.8 Excluded Waste: Highly flammable substances, Hazardous Materials, liquid wastes, certain pathological waste, explosives, radioactive materials, waste of any kind that is generated by any hazardous waste incinerator or facility, or any other waste excluded by any applicable Environmental Laws or excluded by any of the terms and conditions of any permits, licenses or approvals obtained with respect to WSB's operation of the Transfer Station and the Disposal Site. This term shall also include such other waste material which the parties mutually agree poses an unreasonable risk or danger to the operation or safety of the Transfer Station, transportation of waste, Disposal Site or the environment.

1.9 Force Majeure: Any act, event or condition reasonably relied upon by WSB or LFUCG as justification for delay in or excuse from performing or complying with any obligation, duty or agreement required of WSB or LFUCG under this Agreement, which act, event or condition is beyond the reasonable control of WSB or LFUCG or its agents relying thereon, including, without limitation: (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (ii) an act of public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or disobedience, sabotage or similar occurrence; (iii) a strike, work slowdown, or similar industrial or labor action other than by employees of LFUCG, WSB or its affiliates or subcontractors; and (iv) the order or judgment of a court of competent jurisdiction which stays, invalidates, or otherwise prevents the performance of this Agreement by either party.

1.10 Hazardous Materials: Radioactive material, any waste, substance, material,

pollutant, or containment that is considered to be hazardous, toxic, flammable, explosive, or dangerous under Environmental Laws, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et. seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et. seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1501 et. seq.) , Kentucky Revised Statute 224.01-400, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous toxic, flammable or dangerous waste, substance or material.

1.11 LFUCG Waste: All Waste collected or generated by LFUCG or any department, division or unit thereof, or by any contractor employed by LFUCG.

1.12 Non-LFUCG Waste: All Waste not collected or generated by LFUCG or any department, division or unit thereof.

1.13 Premises: Premises as defined in the Lease Agreement between WSB and LFUCG signed on even date herewith.

1.14 Recyclable Materials: Materials removed from LFUCG Waste and intended to be reused or transformed into new products. Additionally, the parties agree that LFUCG may in the future designate Sludge as a Recyclable Material.

1.15 Solid Waste: All garbage, refuse, sludge, and other discarded material, including solid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining (excluding coal mining waste, coal mining products, refuse and overburden) and

agricultural operations, and from community activities, but not including Special Waste, Recyclable Materials, Excluded Waste, solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flow or industrial discharges which are point sources subject to permits under Section 402 of the Federal Pollution Control Act, as amended (86 Stat. 880), or sources, special nuclear, or by-product material as defined by the Atomic Energy Act of 1994, as amended (69 Stat. 923) (KRS 224.01-010 (31)(a)).

1.16 Special Waste: Those wastes of high volume and low hazard or which require special or exceptional handling or approval from the Cabinet for disposal, including, but not limited to, mining waste, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and wastewater treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines (KRS 224.50-760).

1.17 Sludge: Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

1.18 Ton: 2,000 pounds.

1.19 Transfer Station: The Transfer Station located at 1505 Old Frankfort Pike.

1.20 Waste: Solid Waste and Special Waste.

2. REPRESENTATIONS AND WARRANTIES OF LFUCG. LFUCG represents warrants and agrees as follows:

2.1 Existence and Good Standing. LFUCG validly exists as a political subdivision in good standing under the laws of the Commonwealth of Kentucky.

2.2 Approval and Authorization. LFUCG has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder pursuant to various enabling sections of the Kentucky Revised statutes. The Council has duly authorized the execution and delivery of this Agreement and LFUCG's performance of all of its duties and obligations contained herein, and this Agreement constitutes a valid and legally binding obligation of LFUCG, enforceable in accordance with its terms.

2.3 No Litigation. There is no action, suit, or proceeding pending or, to the best of LFUCG'S knowledge and belief, threatened against or affecting LFUCG, at law or in equity or before or by any federal, state, municipal or other governmental department, commission, council,

bureau, agency or instrumentality wherein any decision, ruling or finding would adversely affect the transactions contemplated herein.

2.4 Covenant for Delivery of Waste. LFUCG covenants and agrees that beginning on the Commencement Date and continuing until this Agreement is terminated or expires, (i) the Transfer Station shall be the exclusive facility used by LFUCG for the disposal of Waste; (ii) except as provided in Section 17 of this Agreement, it will deliver or cause to be delivered to the Transfer Station all LFUCG Waste; (iii) the quantity of LFUCG Waste delivered to the Transfer Station shall not be less than 100,000 Tons annually; and (iv) unless LFUCG designates Sludge as a Recyclable Material, all Sludge shall be provided to WSB for disposal in accordance with Section 17 of this Agreement. To the extent necessary to fulfill these covenants, LFUCG agrees that it will take all available action, administrative, legislative or judicial, including the adoption of all necessary waste plans, ordinances, or resolutions, to cause all LFUCG Waste, except as otherwise provided in Section 17, to be delivered to the Transfer Station. LFUCG agrees not to contract during the term of this Agreement with any other Person for the transfer or disposal of LFUCG Waste or operate any facility within Fayette County offering the same or similar services as the Transfer Station or the Disposal Site; provided, however, that LFUCG specifically reserves the right to dispose of construction and demolition waste collected or generated by LFUCG or LFUCG contractors, Recyclable Materials, and grass, brush, leaves and similar wastes which are collected by LFUCG, in any manner it determines to be appropriate, whether pursuant to this Agreement or otherwise. The LFUCG reserves the right to construct or build a new transfer station in Fayette County. A new transfer station would be operated under the

same terms of this contract by WSB.

2.5 Warranty of Clean Environmental Condition. LFUCG warrants and represents that the Transfer Station is in compliance with all Environmental Laws. There are no pending, or to the knowledge of LFUCG, threatened claims, notices of violation, demands, assessments or litigation with respect to any non-compliance with any Environmental Laws at the Transfer Station. Except as may be disclosed to WSB by LFUCG in writing prior to the Commencement Date, LFUCG warrants and represents that the Premises are in compliance with all Environmental Laws.

2.6 Statements. To the best knowledge and belief of LFUCG and its officials and employees, no statement, information, representation or warranty of LFUCG contained in this Agreement or furnished by or on behalf of LFUCG in connection with the transactions contemplated in this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make a statement contained herein not misleading.

3. REPRESENTATIONS AND WARRANTIES OF WSB. WSB represents and warrants as follows:

3.1 Existence and Good Standing. WSB has been duly organized under the laws of Kentucky and validly exists in good standing under the laws of the Commonwealth of Kentucky.

3.2 Approval and Authorization. WSB has all requisite corporate power and authority to enter into and fully perform this Agreement. WSB's execution and delivery of this Agreement and WSB's performance of all of its duties and obligations contained herein have been

duly authorized by all necessary corporate action on the part of WSB and this Agreement of WSB, subject to any approval required by any applicable statute, is enforceable against WSB in accordance with its terms.

3.3 No Litigation. There is no action, suit or proceeding pending or, to the best knowledge and belief of WSB, threatened against or affecting WSB at law or in equity or before or by any federal, state, municipal, or other governmental department wherein any decision would materially or adversely affect the transactions contemplated herein.

3.4 Compliance with Laws. WSB covenants and agrees that, in the operation of the Transfer Station, WSB will comply, in all material respects, with any and all federal, state, and local laws applicable to WSB concerning the operation of the Transfer Station and transportation of waste, subject to WSB's right to contest in good faith the interpretation, application and enforcement of any such laws.

Further, WSB covenants and agrees that any Disposal Site utilized by WSB shall be a permitted solid waste management facility operating in compliance in all material respects with any and all applicable laws.

3.5 Statements. To the best knowledge and belief of WSB and its officials and employees no statement, information, representation or warranty of WSB contained in this Agreement or furnished by or on behalf of WSB in connection with the transactions contemplated in this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make a statement contained herein not misleading.

4. TERM. Unless terminated earlier pursuant to Section 8 herein, the term of this

Agreement shall commence on July 5, 2015, and shall continue in full force and effect until July 4, 2020.

5. RENEWALS. Unless either party provides written notice to the other party prior to July 1, 2019 of its intention not to renew this Agreement, this Agreement shall be deemed to have been extended and renewed without any further documentation for an additional five (5) year term, commencing on July 5, 2020, and terminating on July 4, 2025, under the same terms and conditions as provided herein and in the bid documents.

6. OPERATION OF TRANSFER STATION.

6.1 Standard of Operation. WSB shall operate the Transfer Station according to generally accepted standards for the operation of transfer stations, under the supervision of qualified and trained transfer station personnel and in accordance with the Contract Documents, which are incorporated herein by reference as if fully set out herein, and all applicable laws, ordinances, regulations and orders.

6.2 Specific Operational Obligations. In connection with WSB's operation of the Transfer Station, the parties agree to the following specific obligations: (i) WSB shall not allow trucks delivering Waste to the Transfer Station to backup on any highway from which access to the Transfer Station is made; (ii) WSB shall be responsible for all snow and ice removal on the access road from the highway to the Transfer Station; (iii) WSB and LFUCG shall divide equally the cost of constructing and maintaining any access road from the highway to the Transfer Station subject to the terms of the Lease Agreement; (iv) WSB shall require all trucks transporting Waste to and from the Transfer Station to be tarped or covered and may refuse to accept any uncovered

trucks; (v) WSB shall collect any litter as needed on the access road, on the highway from which access to the Transfer Station is made for a distance of one-half mile from the intersection of the

highway and access road in both directions, on Jimmie Campbell Drive, and around and on 1401 and 1405 Old Frankfort Pike. WSB shall collect any litter along the transportation route which was caused by trucks transporting Waste from the Transfer Station to the Disposal Site; (vi) WSB shall keep the Transfer Station and all permanent fixtures contained therein free of all liens and encumbrances; (vii) WSB shall keep and maintain the Transfer Station at all times during the term hereof in good order and repair (reasonable wear and tear excepted) and shall be responsible for all maintenance of the Transfer Station, both interior and exterior subject to the terms of the Lease Agreement; and (viii) WSB shall procure for the duration of this Agreement insurance against loss or damage by fire or other casualty, with full extended coverage, in an amount equal to the reasonable replacement value of the Transfer Station as provided in paragraph 11.

6.3 Unloading Rights of LFUCG. WSB acknowledges and agrees that efficient and expedient unloading procedures at the Transfer Station are important to LFUCG and that it is imperative that LFUCG trucks are unloaded in a reasonable amount of time so that they may return to their collection routes. WSB agrees to take all reasonable and necessary steps to facilitate efficient and expeditious loading procedures at the Transfer Station. LFUCG agrees to

use its best efforts to lay out its collection routes in a manner that spaces the arrival of LFUCG trucks and avoids, to the extent reasonably possible, the delivery of large quantities of LFUCG Waste at the same time. Ultimately, it is the responsibility of WSB that LFUCG trucks are unloaded in a timely manner and, in the event any LFUCG truck is required for any non-Force Majeure reason, to wait more than one (1) hour to unload at the Transfer Station, WSB shall, as a penalty, pay LFUCG the sum of one hundred dollars (\$100.00) for each hour or portion thereof exceeding one (1) hour, per truck. If for any non-Force Majeure reason, WSB is unable to accept a LFUCG truck at the Transfer Station, and the LFUCG truck unloads directly at the Disposal Site, WSB shall, as a penalty, pay LFUCG the sum of two hundred dollars (\$200.00) per truck, per trip to the Disposal Site.

6.4 Obligation to Accept Waste. In its operation of the Transfer Station, WSB hereby agrees to accept and dispose of all LFUCG Waste and all Non-LFUCG Waste generated in Fayette County and delivered to the Transfer Station.

6.5 Acceptance of Waste. Under no circumstances shall WSB knowingly accept at the Transfer Station any Waste generated outside the counties of Fayette, Scott, Bourbon, Clark, Madison, Jessamine, Woodford, Franklin, Owen, Grant, Harrison, Montgomery, Garrard, Mercer, Lincoln, Boyle and Anderson. LFUCG shall not knowingly deliver or seek to dispose of any Excluded Waste or any other waste that would not be acceptable for disposal at the Transfer Station or the Disposal Site. If any Excluded Waste is delivered to the Transfer Station by LFUCG, LFUCG shall insure, at its own expense, that such materials are disposed of in full compliance with all applicable environmental laws and regulations. WSB may detain and inspect the contents of all vehicles owned or operated by or on behalf of LFUCG that are delivering waste to the transfer station. LFUCG agrees to undertake reasonable efforts to confirm that waste being delivered to the Transfer Station contains no Excluded Waste.

6.6 Ownership of Waste. Ownership of Waste shall pass to and be accepted by WSB upon unloading of Waste at the Transfer Station, loading of Sludge into truck trailers, and/or removal of roll-offs with contaminated soil or asbestos. Ownership of Excluded Waste delivered to the Transfer Station by or on behalf of LFUCG shall not pass to WSB at any time unless WSB agrees in advance in writing to accept such Excluded Waste.

6.7 Access. LFUCG shall have the right to inspect any or all of WSB's and any

subcontractor's operations, facilities or records (excluding confidential financial records) related to this Agreement. LFUCG shall have access to operations and the facilities at any and all times during normal business hours or when there is activity of any kind at those operations or facilities. Any such entry by LFUCG, its agents and representatives, shall not unreasonably interfere with WSB's operations.

7. FEES.

7.1 Fees and Payments. LFUCG shall pay WSB fees in accordance with the schedule of fees attached hereto as Schedule A. The environmental remediation fee of \$1.75 per ton or as that amount may be amended in the future shall be paid separately by LFUCG. Excluded from this provision shall be any Host Fees imposed by Scott County Fiscal Court.

7.2 Payment. No later than the tenth (10th) day of each month, WSB shall invoice LFUCG, via electronic mail or otherwise, for LFUCG Waste accepted by WSB during the previous calendar month. LFUCG shall pay such invoice no later than the last day of the month in which the invoice was received.

7.3 Host Fee. WSB shall no later than the fifteenth (15th) day of each month pay LFUCG a host fee for each Ton of Non-LFUCG Waste accepted at the Transfer Station during the previous calendar month. The amount of the host fee shall be \$2.00 per ton. In consideration of WSB's commitment to pay LFUCG a host fee for all Non LFUCG Waste, LFUCG consents to the use of the Transfer Station for such Non-LFUCG waste, and the establishment by WSB of all fees for Non-LFUCG Waste. There shall be a minimum host fee of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) paid annually at the end of each one (1) year term for the life of

the contract. For clarification purposes, WSB shall be entitled to credit against the One Hundred Twenty-Five Thousand Dollar (\$125,000.00) minimum for LFUCG Host Fees paid by WSB during each one (1) year term.

7.4 Intentionally Omitted

7.5 Methane Gas. On an annual basis, WSB shall pay to LFUCG twenty percent (20%) of the net profit from sales of gas from the methane collection and conversion system to be constructed at its Scott County, Kentucky, landfill. "Net Profit" for purposes of this Section 7.5 shall mean gross income less business related expenses.

8. TERMINATION. Either party may terminate this Agreement upon an Event of Default under this Agreement and failure to cure pursuant to Section 10 below by the other party.

9. EVENT OF DEFAULT. For purposes of this Agreement, an Event of Default with respect to either party shall exist if any of the following events occur: (i) such party breaches or otherwise fails to observe any of the material terms or provisions of this Agreement; (ii) such party shall breach any material covenants, representations, or warranties in this Agreement.

10. OBLIGATION TO CURE DEFAULT. Prior to a party exercising its termination rights pursuant to Section 8, the non-defaulting party shall notify the defaulting party of the default. Each party shall in the case of any default of its obligations under this Agreement either (i) cure the default within thirty (30) days of receipt of written notice from the non-defaulting party, or (ii) continuously demonstrate within such cure period that it is actively and continuously pursuing a course of action that can reasonably be expected to lead to a curing of the default (the thirty (30) day period will be extended for so long as the defaulting party is actively and continuously pursuing such a course); provided, however, that in the event of the failure of any party to pay the other party any sum required to be paid when due hereunder, cure shall consist of payment which shall be made within fifteen (15) days of written demand from the non-defaulting

party, together with interest accruing at the legal rate from the date payment was due.

11. INSURANCE. WSB, at its expense, shall maintain during the term Pollution Liability Insurance with minimum limits of \$5,000,000. Commercial General Liability Insurance with minimum limits of \$2,000,000, including Property Insurance (replacement value), sufficient to repair or replace any damage or destruction resulting from any occurrence covered by such insurance. Automobile Liability Insurance with combined single limits of \$1,000,000 and Workers' Compensation Insurance with minimum limits no less than those prescribed by Kentucky law. All policies shall name "The Lexington Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successor in interest, as additional insureds on any and all appropriate policies issued. All policies of insurance shall be issued by companies qualified and licensed to do business in the Commonwealth of Kentucky with a rating classification of no less than Excellent (A) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide. Certificates of Insurance shall provide that coverage shall not be suspended, voided, canceled by either party, reduced in coverage, or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, to Lexington Fayette Urban County Government, Division of Risk Management, 200 East Main Street, Lexington, Kentucky 40507.

12. INDEMNIFICATION.

12.1 The Risk Management Provisions of RFP No. 50-2014 are incorporated herein by reference as if fully stated. Copies of the required Certificates of Insurance shall be provided to OWNER as required therein.

13. NOTICES. Written notice, demand, or other communication required to be given under this Agreement by either party to the other shall be sufficiently delivered if it is dispatched by registered mail, postage prepaid, return receipt requested, or delivered personally to:

To LFUCG: Commissioner of Public Works

Lexington Fayette Urban County Government

200 East Main Street

Lexington, Kentucky 40507

Commissioner of Law

Lexington Fayette Urban County

Government

Department of Law

200 East Main Street

Lexington, KY 40507

To: WSB: Waste Services of the Bluegrass, Inc.
259 West Short Street, Suite 325
Lexington, KY 40507
Attention: W. Todd Skaggs, President

Hon. John A. Webb
McKenzie, Woolery & Webb, P.S.C.
P.O. Box 1554
1932 Carter Avenue
Ashland, KY 41105-1554

14. ASSIGNMENT AND SUBCONTRACTING. No party to this Agreement shall assign its rights or obligations hereunder in whole or in part without first giving sixty (60) days' notice to, and obtaining the express written consent of, the other party, which consent shall not be unreasonably withheld. Without limiting the foregoing, (i) a transfer of in excess of fifty percent (50%) of the then issued and outstanding voting securities of WSB; or (ii) a Change of Control shall be deemed an assignment for purpose of this paragraph; provided, however, such a transfer to a corporate affiliate of WSB, is hereby excluded and shall not be deemed an assignment. Furthermore, WSB shall not subcontract this Agreement in whole or in part without the written consent of LFUCG, which shall not be unreasonably withheld; provided, however, that WSB may subcontract any of its rights and obligations under this Agreement only as provided in its Response to LFUCG's Invitation to Bid. Any subcontractor not identified in said Response shall be subject to prior written approval by LFUCG which approval shall not be unreasonably withheld. Notwithstanding the foregoing, if an emergency occurs which causes contracting with a new subcontractor to be necessary, WSB may immediately secure the services of a new subcontractor

to handle or transport Waste prior to requesting LFUCG approval. However, WSB may subcontract under an emergency only until such time as LFUCG has responded to WSB's request for written approval, which request shall be made by WSB as soon as possible after the emergency occurs. WSB shall, notwithstanding any subcontract hereunder, remain primarily liable to LFUCG for performance of this Agreement. "Change of Control" as used in this Section shall mean a transfer of a sufficient ownership interest in WSB the result of which allows a transferee to control management of WSB or otherwise direct the affairs of WSB.

15. FORCE MAJEURE. In the event WSB or LFUCG is rendered unable, wholly or in part, by an event of Force Majeure to carry out any of its obligations under this Agreement, then, in addition to the other remedies provided in this Agreement, the obligations of WSB or LFUCG may be suspended during the continuation of any inability so caused by the event of Force Majeure, but for no longer period. Immediately upon such event and continuing throughout the duration of such event, the parties shall each use their best efforts to remedy such event of Force Majeure as expeditiously as possible. Any time that WSB or LFUCG intends to

rely upon an event of Force Majeure to suspend obligations as provided in this Section, WSB or LFUCG shall notify the other party to this Agreement as soon as reasonably practicable, describing in reasonable detail the circumstances of the event of Force Majeure. Notice shall again be given when the effect of the event of Force Majeure has ceased.

If an event of Force Majeure materially and adversely increases either party's costs to perform under this Agreement, the parties agree to meet and negotiate in good faith regarding any adjustment in fees.

16. CONTRACT DOCUMENTS. The Contract Documents are hereby incorporated into this Agreement by reference. In the event that a conflict exists between the provisions of this Agreement and those of the Contract Documents, the provisions of this Agreement shall control, followed by the Request for Proposal #50-2014 (Exhibit A) then WSB's Response to LFUCG's RFP #50-2014 (Exhibit B).

17. SLUDGE AND SPECIAL WASTE HANDLING. With regard to the disposal of sludge generated by LFUCG, WSB shall provide truck trailers at the LFUCG Waste Water Treatment Plants, which truck trailers shall be loaded by LFUCG. WSB shall transport the truck trailers directly to the Disposal Site and LFUCG shall not be required to deliver sludge from the Waste Water Treatment Plants to the Transfer Station. With regard to the disposal of Special Waste, the parties agree that, because of the consistency of some Special Waste, WSB may determine to by-pass the Transfer Station and transport certain Special Wastes directly to the WSB determined Disposal Site.

18. SEVERABILITY. In the event any one or more of the provisions contained in this

Agreement shall, for any reason, be held to be invalid, illegal, unconstitutional, or unenforceable, all remaining provisions of this Agreement shall not be affected and shall remain in full force and effect as if such provision had never been contained herein; provided, however, that it is the intention of the parties hereto that in lieu of each term, clause, or provision that is held to be invalid, illegal or unenforceable, there shall be added by mutual agreement as a part of this Agreement a term, clause or provision as similar in terms to such invalid, illegal or unenforceable term, clause or provision as may be possible and valid, legal or enforceable.

Notwithstanding the above, if the term of this Agreement is held to be invalid, illegal, or unenforceable in any respect, then the term of this Agreement shall automatically be the maximum valid and legal term allowed by applicable common or statutory law.

19. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

20. BINDING EFFECT. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

21. CONSTRUCTION. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms, corporations or other entities.

The terms "herein", "hereunder", "hereto", "hereof" and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of adoption of this Agreement; and the term "hereafter" shall mean after the date of this Agreement. This Agreement is the result of joint negotiations and authorship and no part of this Agreement shall be construed as the product of any of the parties hereto.

22. ENTIRE AGREEMENT. This Agreement, including the Contract Documents, constitutes the entire understanding between LFUCG and WSB, and cancels and supersedes all prior negotiations, representations, understandings and agreements, either written or oral, between such parties with respect to the subject matter hereof. No changes, amendments, alterations, or modifications to this Agreement will be effective unless in writing and signed by the parties hereto.

IN WITNESS WHEREOF, LFUCG AND WSB have caused their respective duly authorized officers to execute this Agreement as of the day and year first above written.

ATTEST:

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

By: Meredith Nih
COUNCIL CLERK

By: Jim Gray
Its: Mayor

ATTEST:

WASTE SERVICES OF THE
BLUEGRASS, INC.

By: W. Todd Skaggs

By: W. Todd Skaggs
W. TODD SKAGGS, PRESIDENT

STATE OF Kentucky)

: SS

COUNTY OF Fayette)

The foregoing Lease Agreement was produced and acknowledged before me this the 19th day of March, 2015, by Jim Gray, Mayor of LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, who acknowledged that he had full authority to act on behalf of the said LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT.

My Commission expires November 10, 2016.

Meredith Elaine Nih #476523
NOTARY PUBLIC, STATE AT LARGE

STATE OF Kentucky)
: SS

COUNTY OF Fayette)

The foregoing Lease Agreement was produced and acknowledged before me this the 24th day of February, 2015, by W. TODD SKAGGS as PRESIDENT of WASTE SERVICES OF THE BLUEGRASS, INC., a Kentucky corporation, on behalf of the said corporation.

My Commission expires 6/13/2016.

Rebecca J. Thomas

NOTARY PUBLIC, STATE AT LARGE

SCHEDULE A

**Transportation and Disposal Fees
Schedule**

Item	Units	Unit Price Transport	Unit Price Disposal	Unit Price Total
Municipal solid waste	tons	\$9.00	\$8.75	\$17.75
Tires (individually)	tons	\$0.00	\$1.75	\$1.75
Tires (by the ton)	tons	\$0.00	\$175.00	\$175.00
Contaminated Soils	tons	\$8.00	\$12.75	\$20.75
Municipal sewage sludge	tons	\$9.00	\$9.75	\$18.75

Asbestos	tons	\$0.00	\$55.00	\$55.00
Special Wastes	tons	\$8.00	\$12.75	\$20.75
Auto gas tanks	each	\$0.00	\$40.00	\$40.00
1 & 2 lb LP tanks	each	\$0.00	\$6.50	\$6.50
CDD material	tons	\$9.00	\$9.75	\$18.75
20 lb propane tanks	each	\$0.00	\$12.00	\$12.00
Host Fee to be <i>paid to LFUCG</i> for non-LFUCG waste processed through Transfer Station				\$2.00

EXHIBIT 'A'



Lexington-Fayette Urban County Government

Request for Proposal

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #50-2014 Waste Management Disposal and Transfer Station Operations** to be provided in accordance with terms, conditions and specifications established herein.

Sealed proposals will be received in the Division of Central Purchasing, Room 338, Government Center, 200 East Main Street, Lexington, KY, 40507, until **2:00 PM**, prevailing local time, on **October 17th, 2014**.

Proposals received after the date and time set for opening proposals will not be considered for award of a contract and will be returned unopened to the Proposer. It is the sole responsibility of the Proposer to assure that his/her proposal is received by the Division of Central Purchasing before the date and time set for opening proposals.

Proposals must be sealed in an envelope and the envelope prominently marked:

RFP #50-2014 Waste Management Disposal and Transfer Station Operations

If mailed, the envelope must be addressed to:

Theresa Maynard – Buyer Senior
Lexington-Fayette Urban County Government
Room 338, Government Center
200 East Main Street
Lexington, KY 40507

Additional copies of this Request For Proposals are available from the Division of Central Purchasing, Room 338 Government Center, 200 East Main Street, Lexington, KY 40507, (859)-258-3320, at no charge.

Proposals, once submitted, may not be withdrawn for a period of sixty (60) calendar days.

The Proposer must submit one (1) master (hardcopy), (1) electronic version in PDF format on a flashdrive or CD and seven (7) duplicates (hardcopies) of their proposal for evaluation purposes.

The Lexington-Fayette Urban County Government reserves the right to reject any or all proposals, and to waive technicalities and informalities when such waiver is determined by the Lexington-Fayette Urban County Government to be in its best interest.

Signature of this proposal by the Proposer constitutes acceptance by the Proposer of terms, conditions and requirements set forth herein.

Minor exceptions may not eliminate the proposal. Any exceptions to the specifications established herein shall be listed in detail on a separate sheet and attached hereto. The Lexington-Fayette Urban County Government shall determine whether any exception is minor.

The Lexington-Fayette Urban County Government encourages the participation of minority- and women-owned businesses in Lexington-Fayette Urban County Government contracts. This proposal is subject to Affirmative Action requirements attached hereto.

Please do not contact any LFUCG staff member or any other person involved in the selection process other than the designated contact person(s) regarding the project contemplated under this RFP while this RFP is open and a selection has not been finalized. Any attempt to do so may result in disqualification of the firm's submittal for consideration.

Laws and Regulations

All applicable state laws, municipal ordinances and regulations of all authorities having jurisdiction over the project shall apply to the contract, and shall be deemed to be incorporated herein by reference.

Equal Employment Opportunity

The Entity (regardless of whether construction contractor, non-construction contractor or supplier) agrees to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, creed, national origin, sex or age, and to promote equal employment through a positive, continuing program from itself and each of its subcontracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

Kentucky Equal Employment Opportunity Act

The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any "county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded

contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;
- (2) The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractors that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;
- (3) The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provision of the nondiscrimination clauses required by this section; and
- (4) The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses."

The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

- (1) For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.

KRS 45.620. Action against contractor -- Hiring of minority contractor or subcontractor

- (1) If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certification

shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

(2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.

(3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

KRS 45.630 Termination of existing employee not required, when

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee upon proof that employee was employed prior to the date of the contract.

KRS 45.640 Minimum skills

Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job."

It is recommended that all of the provisions above quoted be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence that his workforce in Kentucky is representative of the available work-force in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

LFUCG Non-Appropriation Clause

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

Contention Process

Vendors who respond to this invitation have the right to file a notice of contention associated with the RFP process or to file a notice of appeal of the recommendation made by the Director of Central Purchasing resulting from this invitation.

Notice of contention with the RFP process must be filed within 3 business days of the bid/proposal opening by (1) sending a written notice, including sufficient documentation to support contention, to the Director of the Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his/her contention with the RFP process. After consulting with the Commissioner of Finance the Chief Administrative Officer and reviewing the documentation and/or hearing the vendor, the Director of Central Purchasing shall promptly respond in writing findings as to the compliance with RFP processes. If, based on this review, a RFP process irregularity is deemed to have occurred the Director of Central Purchasing will consult with the Commissioner of Finance, the Chief Administrative Officer and the Department of Law as to the appropriate remedy.

Notice of appeal of a RFP recommendation must be filed within 3 business days of the RFP recommendation by (1) sending a written notice, including sufficient documentation to support appeal, to the Director, Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his appeal. After reviewing the documentation and/or hearing the vendor and consulting with the Commissioner of Finance and the Chief Administrative Officer, the Director of Central Purchasing shall in writing, affirm or withdraw the recommendation.

SELECTION CRITERIA:

1. Cost to transport and dispose of waste (**complete fee schedule Attachment A**). 35 points
2. Specialized experience and technical competence of the person or firm (including a joint venture or association) with the type of service required. 10 points
3. Capacity of the person or firm to perform the work, including any specialized services, within the time limitations; waste disposal capacity must be assured for LFUCG wastes. 20 points
4. Character, integrity, reputation, judgment, experience and efficiency of the person or firm. 10 points
5. Past record and performance on contracts with the LFUCG or other governmental agencies and private industry with respect to such factors as control of cost, quality of work and ability to meet schedules. 10 points
6. Minimization of overall environmental impact through transportation efficiency (rail transport, use of alternative fuels, etc.), beneficial reuse of waste materials, waste diversion, energy recovery, and reduced waste generation. 15 points

Proposals shall contain the appropriate information necessary to evaluate based on these criteria. A committee composed of government employees as well as representatives of relevant user groups will evaluate the proposals.

Questions regarding this RFP shall be addressed to:

Theresa Maynard, Buyer Senior
Division of Central Purchasing
theresam@lexingtonky.gov

or submitted to the website at <https://lfucg.economicengine.com>

The Deadline for Questions is Tuesday, October 1st, 2014 at 2:00 pm local time.

Affirmative Action Plan

All vendors must submit as a part of the proposal package the following items to the Urban County Government:

1. Affirmative Action Plan for his/her firm;
2. Current Work Force Analysis Form;

Failure to submit these items as required may result in disqualification of the submitter from award of the contract. All submissions should be directed to:

Director, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor
Lexington, Kentucky 40507

All questions regarding this proposal must be directed to the Division of Central Purchasing, (859)-258-3320.

AFFIDAVIT

Comes the Affiant, _____, and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is _____ and he/she is the individual submitting the proposal or is the authorized representative of _____, the entity submitting the proposal (hereinafter referred to as "Proposer").

2. Proposer will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.

3. Proposer will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.

4. Proposer has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.

5. Proposer has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Proposer will not violate any provision of the campaign finance laws of the Commonwealth.

6. Proposer has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."

Continued on next page

7. Proposer acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Further, Affiant sayeth naught.

STATE OF _____

COUNTY OF _____

The foregoing instrument was subscribed, sworn to and acknowledged before me

by _____ on this the _____ day
of _____, 2013.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap.

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.

Signature

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: _____

Date: ____ / ____ / ____

Categories	Total	White		Latino		Black		Other		Total	
		M	F	M	F	M	F	M	F	M	F
Administrators											
Professionals											
Superintendents											
Supervisors											
Foremen											
Technicians											
Protective Service											
Para-Professionals											
Office/Clerical											
Skilled Craft											
Service/Maintenance											
Total:											

Prepared by: _____
Name & Title

**DIRECTOR, DIVISION OF CENTRAL PURCHASING
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
200 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507**

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL
EMPLOYMENT OPPORTUNITIES AND DBE CONTRACT PARTICIPATION**

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this Contract be subcontracted to Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The goal for the utilization of Disadvantaged Business Enterprises as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Marilyn Clark, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
mclark@lexingtonky.gov

Lexington-Fayette Urban County Government
MWDBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE) and Disadvantaged (DBE) Business Enterprises as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all payments submitted to Minority-Owned or Woman-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a Minority-Owned or Woman-Owned subcontractor or supplier listed in the original submittal must be requested in writing and must be accompanied by documentation of Good Faith Efforts to replace the subcontractor / supplier with another MWDBE Firm; this is subject to approval by the LFUCG. (See LFUCG MWDBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Central Purchasing (859-258-3320)
- 4) The LFUCG will make every effort to notify interested MWDBE subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned and operated by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.

- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned and operated by one or more Non-Minority Females.
- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned and operated by a person(s) that are economically and socially disadvantaged.
- 4) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE subcontractors/suppliers. The failure to meet the goal shall not necessarily be cause for disqualification of the bidder; however, bidders not meeting the goal are required to furnish with their bids written documentation of their Good Faith Efforts to do so.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled "MWDBE Participation Form". The applicable information must be completed and submitted as outlined below.
- 4) **Failure to submit this information as requested may be cause for rejection of bid.**

E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form." The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the "MWDBE Participation Form", the "Quote Summary Form" and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE participation, bidder shall enter "None" on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
 - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and

publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms to participate.

- b. Included documentation of advertising in the above publications with the bidders good faith efforts package
- c. Attended LFUCG Central Purchasing Economic Inclusion Outreach event
- d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities
- e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms
- f. Requested a list of MWDBE subcontractors or suppliers from LFUCG Economic Engine and showed evidence of contacting the companies on the list(s).
- g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWBDE firms to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- h. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- i. Followed up initial solicitations by contacting MWDBEs to determine their level of interest.
- j. Provided the interested MWBDE firm with adequate and timely information about the plans, specifications, and requirements of the contract.
- j. Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce.
- k. Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

- m. Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
- o. Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal
- p. Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.
- q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Marilyn Clark
Minority Business Enterprise Liaison
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
mclark@lexingtonky.gov
859-258-3323

OUR MISSION: The mission of the Minority Business Enterprise Program is to facilitate the full participation of minority and women owned businesses in the procurement process and to promote economic inclusion as a business imperative essential to the long term economic viability of Lexington-Fayette Urban County Government.

To that end the city council adopted and implemented resolution 167-91—Disadvantaged Business Enterprise (DBE) 10% Goal Plan in July of 1991. The resolution states in part (a full copy is available in Central Purchasing):

“A Resolution supporting adoption of the administrative plan for a ten percent (10%) Minimum goal for disadvantaged business enterprise participation in Lexington-Fayette Urban County Government construction and professional services contracts; Providing that as part of their bids on LFUCG construction contracts, general Contractors shall make a good faith effort to award at least ten percent (10%) of All subcontracts to disadvantaged business enterprises; providing that divisions of LFUCG shall make a good faith effort to award at least ten percent of their Professional services and other contracts to disadvantaged business enterprises...”

A Disadvantaged Business Enterprise is defined as a business that has been certified as being at least 51% owned, operated and managed by a U.S. Citizen of the following groups:

- African-American
- Hispanic-American
- Asian/Pacific Islander
- Native American/Native Alaskan
- Non-Minority Female
- Economically and Socially Disadvantaged

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs in Economic Engine (<https://lfucg.economicengine.com>)

Business	Contact	Email Address	Phone
LFUCG	Marilyn Clark	mclark@lexingtonky.gov	859-258-3323
Commerce Lexington – Minority Business Development	Tyrone Tyra	ttyra@commercelexington.com	859-226-1625
Tri-State Minority Supplier Diversity Council	Sonya Brown	sbrown@tsmsdc.com	502-625-0137
Small Business Development Council	Dee Dee Harbut UK SBDC	dharbut@uky.edu	
	Shiree Mack	smack@uky.edu	
Community Ventures Corporation	James Coles	icoles@cycky.org	859-231-0054
KY Department of Transportation	Melvin Bynes	Melvin.bynes@ky.gov	502-564-3601
	Shella Eagle	Shella.Eagle@ky.gov	502-564-3601
Ohio River Valley Women’s Business Council (WBENC)	Rea Waldon	rwaldon@gcul.org	513-487-6534
Kentucky MWBE Certification Program	Yvette Smith, Kentucky Finance Cabinet	Yvette.Smith@ky.gov	502-564-8099
National Women Business Owner’s Council (NWBOC)	Janet Harris-Lange	janet@nwbo.org	800-675-5066
Small Business Administration	Robert Coffey	robertcoffey@sba.gov	502-582-5971
LaVoz de Kentucky	Andres Cruz	lavozecky@yahoo.com	859-621-2106
The Key News Journal	Patrice Muhammad	patricem@keynewsjournal.com	859-373-9428



LFUCG MWDBE PARTICIPATION FORM

Bid/RFP/Quote Reference # _____

The MWDBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

MWDBE Company, Name, Address, Phone, Email	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1.			
2.			
3.			
4.			

The undersigned company representative submits the above list of MWDBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title



LFUCG MWDBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # _____

The substituted MWDBE subcontractors listed below have agreed to participate on this Bid/RFP/Quote. These substitutions were made prior to or after the job was in progress. These substitutions were made for reasons stated below and are now being submitted to Central Purchasing for approval. By the authorized signature of a representative of our company, we understand that this information will be entered into our file for this project.

SUBSTITUTED MWDBE Company Name, Address, Phone, Email	MWDBE Formally Contracted/ Name, Address, Phone, Email	Work to Be Performed	Reason for the Substitution	Total Dollar Value of the Work	% Value of Total Contract
1.					
2.					
3.					
4.					

The undersigned acknowledges that any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title



MWDBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference # _____

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name	Contact Person
Address/Phone/Email	Bid Package / Bid Date

MWDBE Company Address	Contact Person	Contact Information (work phone, Email, cell)	Date Contacted	Services to be performed	Method of Communication (email, phone meeting, ad, event etc)	Total dollars \$\$ Do Not Leave Blank (Attach Documentation)	MBE * AA HA AS NA Female

(MBE designation / AA=African American / HA= Hispanic American/AS = Asian American/Pacific Islander/ NA= Native American)

The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title



LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT

The LFUCG has a 10% goal plan adopted by city council to increase the participation of minority and women owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE vendors on a monthly basis. By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentation may result in termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims. Please submit this form monthly to the Division of Central Purchasing/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Bid/RFP/Quote # _____
Total Contract Amount Awarded to Prime Contractor for this Project _____

Project Name/ Contract #	Work Period/ From: _____ To: _____
Company Name:	Address:
Federal Tax ID:	Contact Person:

Subcontractor Vendor ID (name, address, phone, email)	Description of Work	Total Subcontract Amount	% of Total Contract Awarded to Prime for this Project	Total Amount Paid for this Period	Purchase Order number for subcontractor work (please attach PO)	Scheduled Project Start Date	Scheduled Project End Date

By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title

LFUCG STATEMENT OF GOOD FAITH EFFORTS

Bid/RFP/Quote # _____

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE business enterprises on the project and can supply the appropriate documentation.

- _____ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms to participate.
- _____ Included documentation of advertising in the above publications with the bidders good faith efforts package
- _____ Attended LFUCG Central Purchasing Economic Inclusion Outreach event
- _____ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities
- _____ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms
- _____ Requested a list of MWDBE subcontractors or suppliers from LFUCG Economic Engine and showed evidence of contacting the companies on the list(s).
- _____ Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- _____ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- _____ Followed up initial solicitations by contacting MWDBEs to determine their level of interest.
- _____ Provided the interested MWDBE firm with adequate and timely information about the plans, specifications, and requirements of the contract.
- _____ Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible

units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.

_____ Other - any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.

The undersigned acknowledges that all information is accurate. Any misrepresentations may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title

GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 *et. seq.*, as amended, and KRS Chapter 338. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or attempted to bribe an officer or employee of the LFUCG.

9. Additional Information: While not necessary, the Respondent may include any product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the proposal,
10. Ambiguity, Conflict or other Errors in RFP: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. Agreement to Bid Terms: In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
12. Cancellation: If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.
- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
 - (a) Failure to perform the contract according to its terms, conditions and specifications;

- (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
- (c) Late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
- (d) Failure to diligently advance the work under a contract for construction services;
- (e) The filing of a bankruptcy petition by or against the contractor; or
- (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.
15. **Authority to do Business:** The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this Contract. The Respondent will provide LFUCG with a copy of a corporate

resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.

16. **Governing Law:** This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.
17. **Ability to Meet Obligations:** Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
19. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

Signature

Date

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

RFP #50-2014 Waste Management Disposal and Transfer Station Operations

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) CONTRACTOR shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by CONTRACTOR's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. Vendor acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the Contractor in any manner.

FINANCIAL RESPONSIBILITY

BIDDER/CONTRACTOR understands and agrees that it shall, prior to final acceptance of its bid and the commencement of any work, demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions.

INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

Required Insurance Coverage

BIDDER/CONTRACTOR shall procure and maintain for the duration of this contract the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to LFUCG in order to protect LFUCG against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONTRACTOR. The cost of such insurance shall be included in any bid:

<u>Coverage</u>	<u>Limits</u>
General Liability (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit
Commercial Automobile Liability (Insurance Services Office Form CA 0001)	combined single, \$1 million per occurrence
Worker's Compensation	Statutory
Employer's Liability	\$500,000.00

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless it is deemed not to apply by LFUCG.
- d. The General Liability Policy shall include a Pollution liability and/or Environmental Casualty endorsement unless it is deemed not to apply by LFUCG. Such coverage may be provided in combination with an umbrella policy and must be in a minimum of at least \$5 million.

- e. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- f. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, and may be submitted on a manually signed renewal endorsement form. If the policy or carrier has changed, however, new evidence of coverage must be submitted in accordance with these Insurance Requirements.

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE. Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of BIDDER/CONTRACTOR's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If BIDDER/CONTRACTOR satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, BIDDER/CONTRACTOR agrees to provide Lexington-Fayette Urban County Government, Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

- a. Latest audited financial statement, including auditor's notes.
- b. Any records of any self-insured trust fund plan or policy and related accounting statements.
- c. Actuarial funding reports or retained losses.
- d. Risk Management Manual or a description of the self-insurance and risk management program.
- e. A claim loss run summary for the previous five (5) years.
- f. Self-Insured Associations will be considered.

Safety and Loss Control

CONTRACTOR shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and LFUCG.

Verification of Coverage

BIDDER/CONTRACTOR agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

CONTRACTOR understands and agrees that LFUCG may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

DEFAULT

BIDDER/CONTRACTOR understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at its option any single remedy or penalty or any combination of remedies and penalties, as available, including but not limited to purchasing insurance and charging BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.

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SCOPE OF SERVICES

Introduction

This solicitation seeks proposals from qualified bidders to provide long-term waste disposal services for the Lexington-Fayette Urban County Government (LFUCG). The service to be procured also includes LFUCG transfer station operations, presently conducted at 1505 Old Frankfort Pike. The current contract for this service will expire on July 5, 2015. Successful bidders must be prepared to begin work prior to that date.

Background

The LFUCG, a merged city-county government, serves a population of approximately 295,800 citizens (2010 Census) in the central bluegrass region of Kentucky. The LFUCG operates an established municipal solid waste management program with curbside collection of waste, recyclables, and yard clippings. Materials collected flow to multiple facilities, with recyclables going to the Materials Recovery Facility, the yard clippings going to the LFUCG's composting facility, and the remaining solid waste going to the transfer station. The LFUCG also operates a drop off facility for electronic waste in addition to other special services like pickups for bulky items and white goods.

The LFUCG owns the solid waste transfer station at 1505 Old Frankfort Pike which serves as the hub for consolidation of the solid waste which is eventually transported to an out-of-county landfill for disposal. Each year the LFUCG will send approximately 160,000 tons of household garbage through the facility, in addition to tires, appliances, and other items – this represents roughly 85% of the material received at the facility, with the rest hauled by private firms and individuals. The LFUCG also contracts with the current vendor for disposal of municipal wastewater treatment plant (WWTP) sludge from two facilities: the Town Branch WWTP on Lisle Industrial Avenue; and the West Hickman WWTP in Jessamine County.

The LFUCG services 96,000 households with once-per-week curbside pickup of waste (95-gallon Herbie containers). The LFUCG also serves 5,700 commercial customers (dumpsters and Herbies). For waste collection services, LFUCG has a fleet of 20 rear-loaders, 15 side-loaders, 18 front-loaders, and 4 specialty vehicles. The Division of Waste Management has a staff of 82 FTEs involved in the waste collection program (not counting recycling, yard waste, administration, and other programs).

For more information about the division and its programs, see the latest 5-year update to the area solid waste management plan:

<http://www.lexingtonky.gov/wasteRFP>

Description of Services

The LFUCG is requesting proposals for the operation of the transfer station, and the disposal of wastes processed through the facility that cannot otherwise be beneficially reused or recycled. It is a goal of the LFUCG to recover, reuse, or recycle as much of the waste stream as is reasonably possible.

The successful bidder will provide transportation of waste from the LFUCG transfer station to a permitted contained landfill, or other suitable facility, for proper disposal. The service to be procured also includes disposal of municipal wastewater treatment plant sludges and screenings which will be transported directly to the disposal facility from the treatment plants.

Management and disposal of all wastes must be in compliance with Kentucky state laws, including but not limited to Kentucky Revised Statutes Chapter 224 and all associated regulations. Below are links to the Kentucky Legislative Research Commission's web site for statutes:

<http://www.lrc.ky.gov/Statutes/chapter.aspx?id=38287>

and regulations:

<http://www.lrc.ky.gov/kar/TITLE401.HTM>

Materials which may be delivered to the transfer station include, but are not limited to the following:

- Residential and commercial municipal solid waste
- Used tires
- Properly contained asbestos
- Bulky items such as furniture, mattresses, pianos, etc.
- Car parts such as car seats, exhaust pipes, window glass and doors.
- Plumbing fixtures
- Materials from special projects such as cleanups of illegal dumps
- Petroleum contaminated soil
- Debris collected through street sweeping activities, litter abatement activities, and the like

Waste stream characterization studies have been conducted for this facility and a copy of the latest report is available at <http://www.lexingtonky.gov/wasteRFP>.

The transfer station must be in operation to receive incoming waste during the following hours (major holidays excluded):

- Monday – Friday 6:00 a.m. to 5:00 p.m.
- Saturday 6:00 a.m. to 1:00 p.m.

- The facility will also have an after-hours drop off service for Fayette County residents use from 5:00 p.m. to 7:00 p.m. on Thursday and Friday, and 1:00 p.m. to 6:00 p.m. on Saturday.

All equipment and buildings will be the responsibility of the contractor to operate and maintain. The transfer station will be dedicated to the waste disposal needs of the LFUCG. Receipt of waste from other entities will be subject to LFUCG approval. The successful bidder must be prepared to provide a Saturday "Free Dump Day" for Fayette County residents at least once per quarter.

Waste shall not be left at the tipping floor overnight. The contractor will also be responsible for facility security, odor control, and litter abatement.

Wastewater Treatment Plant Sludge Transfer and Disposal

The annual tonnage for sludge disposal over the last three (3) calendar years is as follows:

West Hickman WWTP	23,350 tons (combined sludge/grit/rags)
Town Branch WWTP	16,915 tons (sludge) 1,230 tons (grit/rags)*

Both plants currently process sludge on a daily basis (Monday through Saturday) and have no suitable facilities for the storage of processed (dewatered) sludge. The sludge disposal contractor **must provide a sufficient number of trailers** so that the processing of sludge can continue uninterrupted on the current schedule with no loaded trailers remaining on LFUCG property for more than 4.0 hours. The only exception to this standard will be any trailers loaded by LFUCG between noon on Saturdays and 4:00 am on Monday.

* *Grit and rags at Town Branch are currently serviced under separate contract using roll off containers.*

Disposal Facilities

All bidders must clearly identify all primary disposal options they intend to utilize if awarded this contract. Each primary disposal option identified must include a written narrative describing:

- The location of the disposal option;
- The type of facility (landfill, incinerator, energy recovery, etc.);
- The legal owner(s) of the facility;
- The bidder's contractual relationship with the legal owner(s) of the facility;
- Operational permit reference number(s);
- The available capacity of the disposal option;
- The duration for which the stated capacity is expected to be available;
- The exclusivity of capacity for LFUCG's use throughout the duration of this contract;
- Any disposal cost impacts to LFUCG in the event that the identified disposal option is utilized by the successful bidder.

All disposal options identified by a bidder must be viable so that service to the LFUCG is uninterrupted. Capacity at the receiving facilities must be assured and documented through the locality's solid waste management plan.

Alternative Disposal Facilities

The successful bidder must provide assurances that sufficient alternative disposal options are available in the event that the primary disposal facility is unusable. Alternatives must be viable so that service to the LFUCG is uninterrupted. Capacity at the receiving facilities must be assured and documented through the locality's solid waste management plan.

Term of Service

The LFUCG seeks to enter into a five-year agreement with the successful bidder, with an option to renew the agreement for another five year term.

The successful bidder will begin work on **July 5, 2015**.

Payments

The LFUCG will enter into a contractual agreement with the successful bidder. The payments for this service will be primarily based upon the weight (\$/ton) of waste crossing the scales at the transfer station, while allowing for a full pricing schedule for the items listed above, and accounting for any tonnages diverted from the waste stream.

Evaluation of Proposals

Proposals will be evaluated according to a cost evaluation with consideration given to the following criteria.

- Cost to transport and dispose of waste (**complete fee schedule Attachment A**). – 35%
- Specialized experience and technical competence of the person or firm (including a joint venture or association) with the type of service required. -10%
- Capacity of the person or firm to perform the work, including any specialized services, within the time limitations; waste disposal capacity must be assured for LFUCG wastes. -20%
- Character, integrity, reputation, judgment, experience and efficiency of the person or firm. 10%
- Past record and performance on contracts with the LFUCG or other governmental agencies and private industry with respect to such factors as control of cost, quality of work and ability to meet schedules. -10%
- Minimization of overall environmental impact through transportation efficiency (rail transport, use of alternative fuels, etc.), beneficial reuse of waste materials, waste diversion, energy recovery, and reduced waste generation. -15%

Notices of Violation

Proposals must include a listing with pertinent details of any Notices of Violation for any facilities operated or proposed for utilization by the proposer that would receive LFUCG waste. The contractor, once selected, must further agree to notify the LFUCG within twenty-four (24) hours of any Notices of Violation issued by any regulatory agency to any operation or facility being utilized for the transfer or disposal of solid waste associated with this RFP.

Certified Landfill Operator

Proposals must include verification that any landfills receiving waste from the LFUCG transfer station are overseen by a certified landfill manager.

Record Keeping and Access

Proposals must assure the LFUCG shall have the right to inspect any or all of the records related to this service during normal business hours or when there is activity of any kind at the transfer station or disposal facilities.

Proposals must provide for accurate reporting. The successful bidder will be required to submit monthly reports to the LFUCG detailing the quantity and types of residential and commercial waste and other materials delivered to the transfer station and the amounts received from entities outside of Fayette County.

The successful bidder will also be expected to provide pertinent data to the LFUCG in support of the Area Solid Waste Management reports required by KRS 224.43-310.

Performance Bond

The successful bidder will be required to provide a performance bond in the amount of **\$1,500,000** prior to execution of the contract. The bonding shall be continuous for the term of the contract.

Protection of Work and Materials

The successful bidder will be solely responsible for the care and protection of all work and waste handled under the contract. All damages will be remedied at the contractor's expense.

ATTACHMENT A

Transportation and Disposal Fees Schedule

Item	Units	Unit Price Transport	Unit Price Disposal	Unit Price Total
Municipal solid waste	tons	\$	\$	\$
Tires (individually)	each	\$	\$	\$
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Asbestos	tons	\$	\$	\$
Special wastes	tons	\$	\$	\$
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1 & 2 lb LP tanks	each	\$	\$	\$
CDD material	tons	\$	\$	\$
20 lb propane tanks	each	\$	\$	\$
Host Fee to be <i>paid to LFUCG</i> for non-LFUCG waste processed through Transfer Station			tons	\$

EXHIBIT 'B'

**Request for Proposal No.: RFP#50-2014
Waste Management Disposal and Transfer Station Operations**



**Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507**

**Attn: Theresa Maynard
Buyer Senior**

**October 30th, 2014
2:00pm**

Submitted By:

**Waste
Services
of the Bluegrass**

**259 W. Short St., Ste. 325
Lexington, KY 40507**

Waste Services of the Bluegrass

259 West Short Street, Suite 325, Lexington, KY 40507
Phone: (859) 258-2301 Fax: (859) 258-9073

Dear Sir/Madam,

Waste Services of the Bluegrass appreciates the opportunity to respond to LFUCG's bid RFP # RFP50-2014 proposal. Or proposal to this RFP is attached.

Waste Services of the Bluegrass is a Kentucky-based company with its headquarters located on West Short Street in downtown Lexington.

Waste Services of the Bluegrass has strived to address LFUCG's desire to be a city at the forefront of sustainability and environmental awareness and action.

Headquartered in Lexington will allow the city to work efficiently for the benefit of Lexington with a company that fully understands the environmental needs for the area, not just today, but well into the future.

WSB officers and staff cumulatively have over 150 years of solid waste experience, and in fact were directly involved when LFUCG first contracted a private firm to manage its waste. Not only experienced, but Waste Services is actively investigating cutting edge technology to advance the management of solid waste. Experience only counts if the bidder takes initiatives to develop 21st century solutions.

If Waste Services of the Bluegrass is selected to perform the work being considered by Lexington, you can be assured that the city's current and future solid waste are in good hands, continually working with Lexington to be a leader in green sustainable living for its citizens and businesses.

Sincerely,



W. Todd Skaggs,
President/CEO

Table of Contents

- A. Introduction Letter
- B. Criteria Description
- C. Selection Criteria
 - 1. Cost to Transport and Dispose
 - a. Attachment A
 - b. Page left Blank
 - 2. Specialized Experience and Technical Competence
 - a. Manager Certifications
 - 3. Capacity to Perform Work
 - a. Landfill Permit
 - b. Scott County Judge/Executive – Solid Waste Management Plan
 - c. Scott County Solid Waste Plan, Chapter 3 – Disposal
 - d. Cornerstone Environmental – Capacity Letter
 - e. Cornerstone Environmental – Expansion Letter
 - 4. Character, Integrity, Reputation, Judgment and Experience.
 - a. Personal Letters of Recommendation
 - i. George Lusby
 - ii. Everette Varney
 - iii. Stephen Gilmore
 - iv. Valerie N. Blanton-Smith
 - b. Personnel Resumes
 - i. Todd Skaggs, President – CEO
 - ii. Greg Elkins, COO
 - iii. Randall Hodges, Landfill Manager
 - iv. John Elkins, Landfill Manager
 - v. Drew Skaggs, Hauling Manager
 - 5. Past Records and Performance on Contract
 - a. Customer Letters of Recommendation
 - i. University of Kentucky
 - ii. Madison County
 - iii. Ball Homes

6. Environmental Impact

- a. Fuel and Emissions Statistics
- b. Landfill Gas to Energy Project
- c. Exploring to Potential for Rail
- d. Utilizing CNG Letter

D. Additional Submittals

- a. Affidavit
- b. Equal Opportunity Agreement
- c. Work Force Analysis
- d. Affirmative Action Program
- e. MWDBE Participation Form
- f. General Provisions Agreement
 - i. Letter From Attorney
 - ii. Corporate Resolution
 - iii. Certificate of Existence
- g. Certificate of Insurance
- h. Disposal Facilities
- i. Alternate Landfills
 - i. Santek
 - ii. Big Run Landfill
 - iii. Bavarian Landfill
- j. Map of Alternate Landfills
- k. Record Review Assurance Letter
- l. NOV's
- m. Addendum
 - i. Addendum #1 – Questions Deadline Clarification
 - ii. Addendum #2 – Proposal Meeting
 - iii. Addendum #2 – Answers to Questions
 - iv. Addendum #4 – Questions Deadline Extension
 - v. Addendum #5 – RFP Due Date Extension
 - vi. Addendum #6 – Correction to Attachment A Current

Firm Submitting Proposal: Waste Services of the Bluegrass

Complete Address: 259 W Short St. Ste 325 Lexington, Ky 405
Street City Zip

Contact Name: Todd Skaggs Title: President / CEO

Telephone Number: 859-258-2301 Fax Number: 859-258-9073

Email address: toddskaggs@mac.com

Waste Services of the Bluegrass

259 West Short Street, Suite 325, Lexington, KY 40507
Phone: (859) 258-2301 Fax: (859) 258-9073

Waste Services of the Bluegrass, Inc. ("Waste Services") is a local company that currently provides waste hauling and landfill services in Central Kentucky. We have the transport and storage facilities, experience, local employees and vision to provide a long term, cost effective; sustainable solution for the Urban County Government's solid waste disposal needs. Our proposal not only incorporates innovative, cutting edge technology in the transport and processing of solid waste, but will also provide a financial benefit to the Government by receiving a portion of the profits from the sale of landfill gas used to produce electricity for our energy recovery program. Our proposal will reduce greenhouse gas emissions, reduce the carbon footprint, reduce the reliance on fossil fuels and increase the use of alternative energy captured from gasses emitted from solid waste and converted into electricity that will be sold to Toyota's manufacturing facility in Scott County, not only will the waste be used beneficially through increased recycling the solid waste in the landfill itself will be beneficial as it generates gas that will be captured for conversion to electricity. This protects the environment, by converting the gasses into alternative fuels. Finally, we are in negotiations with two railroad companies to explore the potential of hauling solid waste from a transfer station to our landfill in Scott County. This would reduce the number of trucks on the road, which improves traffic and also reduces fossil fuel consumption since moving solid waste by rail uses much less fuel than trucks to do the same work.

Our proposal incorporates the following specific transportation efficiencies: alternative fuels, energy recovery and beneficial reuse of solid waste and sewage sludge, all of which includes a Lexington based company, local employees and local subcontractors to fully address this community's solid waste disposal needs:

- Waste Services is pleased to partner with SLI Contracting (SLI) or Lexington to fulfill the MWDBE request of LFUCG. SLI will receive in excess of 15% of the total monetary value of the contract should Waste Services be awarded the disposal agreement. Partnering with SLI on this RFP exceeds the 10% MWDBE goal requested by LFUCG.
- Transfer station – we would explore the possibility of refurbishing the existing transfer station on the Urban County Government’s Old Frankfort Pike property or constructing a new transfer station at another location mutually determined by both parties. Waste Services will give the improvements or the new transfer station to the Urban County Government upon completion of an agreed upon term. Waste Services will staff, maintain and operate the transfer station in accord with all of the Urban County Government’s requirements and specifications, and will comply fully with all other applicable local, state and federal requirements.
- When the Urban County Government’s compressed natural gas (“CNG”) facility is constructed and open to the public, Waste Services will begin converting its fleet, (currently 20 trucks) to engines that are powered by CNG. This will reduce our reliance on fossil fuel by using an alternative supply of energy, benefit the Government through the sale of CNG and provide a positive example to others that sustainable, environmentally sound energy must be incorporated as a sound business practice.
- We are exploring the possibilities with Norfolk Southern and RJ Corman Railroad to transport solid waste from a transfer station to our permitted landfill in Scott County. Using rail to transport the goods, which includes solid waste, is three times more efficient than trucks. Not only would rail transport improve highway traffic flows and safety by reducing the amount of trucks on the road, it would also reduce the emission of greenhouse gasses into the atmosphere because trucks burn more fossil fuel. It is estimated that trains can move one ton of freight 484 miles on one gallon of fuel. The effect of one train hauling freight would be to remove 280 trucks from the road.
- Methane gas from the solid waste, including sewer sludge that is transported to our landfill will be collected and converted to electricity using a process that first cleans the methane and

prepares it to be burned efficiently in our electric generation facility. The methane that will be collected will substantially reduce the amount of gas that otherwise is wasted by release into the atmosphere as a greenhouse gas, which contributes to global warming.

- Waste Services entered into an agreement with Toyota Motor Manufacturing of Kentucky (TMMK), Georgetown facility to sell the landfill gas and produce electricity that will be placed on a dedicated line from the landfill to TMMK electricity generated by the methane conversion system. We have secured the necessary easements to run the underground line from the landfill directly to Toyota's Georgetown facility. The generation plant has received its necessary permits and construction has begun. The facility is expected to be completed and generating power for Toyota in the first quarter of 2015. The initial electricity generated is expected to be approximately 1.5 megawatts per hour, sufficient power to build 10,000 vehicles. Over the next twenty years Toyota and Waste Services intend to increase the amount of electricity generated by the landfill to enhance Toyota's manufacturing needs.
- We propose to offer the Urban County Government a share of the proceeds from the sale of landfill gas and electricity to Toyota. The electricity used by Toyota will reduce the amount of power it buys from fossil fuel generated sources. Capturing the methane reduces air pollution and puts it to a beneficial use. Sharing the proceeds of the sale of the electricity is economically beneficial to the Urban County Government.

Criteria Checklist

1.) **A:** See schedule A.

2.) **A:** Waste Services management has in excess of 150 years of experience in the waste industry. During this time Waste Service's officials have participated in numerous public/private partnerships across the Southeastern United States.

3.) **A:** See attached resumes and letters of recommendations. In addition, the waste disposal capacity via operating permit and Scott County Solid Waste Management plan letter from Scott County Judge Executive George Lusby.

4.) **A:** Please refer to the endorsement letters attachment in our response to RFP.

5.) **A:** Waste Services is currently under contract with LFUCG for removal and disposal of construction and demolition debris, which began in May of 2012. At the time, Waste Services was aware of costs incurred by LFUCG in closing their own construction and demolition landfill. Due to this, LFUCG was charged **ZERO** for their waste until March 1, 2014. After that date, LFUCG began being charged at a rate representing a 26% discount off normal tonnage fees.

Waste Services has been the sole vendor for the University of Kentucky's waste since January 1, 2010. Also, Waste Services is contracted with Toyota Motor Manufacturing. Franklin, Harrison and Owen County, Kentucky are also under contract with Waste Services. A list of additional private industry contracts with such companies as Ball Homes are available upon request.

6.) A: Waste Services has the closest (by far) landfill to the Lexington transfer station, and should Waste Services be the selected vendor LFUCG will see a substantial reduction in greenhouse gas emissions (Hydrocarbons, Carbon Monoxide and Nitrous Oxide) once Lexington's waste starts being hauled to Waste Services' landfill. Please see attached the fuel consumption and emissions graph. Also, Waste Services is actively pursuing rail access as an option to reduce carbon emissions even more. Please see attached letters from RJ Corman Railroad Company and Norfolk Southern. Additionally, Waste Services trucks will begin being shifted to CNG based once LFUCG's CNG station is operational and authorized for our use.

Perhaps the most forward thinking, environmentally beneficial advantage is that if Waste Services is selected as the vendor LFUCG will benefit enormously by Waste Services' long term contract with Toyota in which Toyota will use gas generated at Waste Services' landfill to in part power their production facility in Georgetown. Please see attached the press release regarding this. Once up and running in 2015, their landfill will be essentially emission free since the methane gas generated is to be captured and reused. LFUCG waste will be beneficially reused by helping create gas which is in turn converted to power which will be used to help power the production lines of one of Central Kentucky's largest employers. Toyota generates more jobs than any other employer in Central Kentucky. In effect, LFUCG's waste will be recycled to reduce its own carbon footprint via a company which employs thousands of Lexingtonians.

Selection Criteria 1

**Cost to Transport/Dispose
Schedule A**

ATTACHMENT A

Transportation and Disposal Fees Schedule

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Host Fee to be <i>paid to LFUCG</i> for non-LFUCG waste processed through Transfer Station			tons	\$

Selection Criteria 2

Specialized Experience
Technical Competence

Energy and Environment Cabinet

THIS IS TO CERTIFY THAT

Gregory A Elkins

*has fulfilled the requirements of the law and regulations governing operator certification and is
hereby granted this certificate.*

Landfill Operator/Manager

Agency Interest # 84771 Certification No. 24599

Given under my hand this 18th day of April, 2012 at Frankfort, Kentucky


Director, Division of Compliance Assistance



Energy and Environment Cabinet

THIS IS TO CERTIFY THAT

Randall S Hodges

has fulfilled the requirements of the law and regulations governing operator certification and is hereby granted this certificate.

Landfill Manager

Agency Interest # 41811 Certification No. 26877

Given under my hand this 5th day of June, 2014 at Frankfort, Kentucky



Julie A. Hays
Director, Division of Compliance Assistance

