

AFFIDAVIT OF DOUGLAS G. WOOD

CITY OF JACKSONVILLE Comments and Interpretation Landfill Procurement Process

Background

Several weeks ago, Alan Mosley, Chief Administrative Officer, City of Jacksonville contacted me concerning the contract between Waste Management, Inc. (WMI) and the City of Jacksonville. Mr. Mosley's inquiry concerned clarification of the ability of the City to negotiate and extend the operation contract with WMI. Mr. Mosley contacted me because at the time WMI was selected as a contractor I was a City employee (Deputy Director, Department of Public Utilities) responsible for solid waste management programs and operations.

Following our conversation, Mr. Mosley stated that I may receive a letter requesting me to attest to my understanding and interpretation of the City's intent in the request for proposal process and the related contracts. I did receive a letter and Affidavit to review and sign. This document came from Paul Harden, Attorney. At the time I was employed by the City, Mr. Harden represented WMI. I reviewed the affidavit and concluded that I did not agree with the interpretation of the issues outlined. I did not sign the affidavit nor did I contact Mr. Mosley or Mr. Harden regarding the document.

Later, I received a call from the City General Counsels Office (Ms. Loree French and Mr. John Germany) asking if I received a call from City staff or others on this same matter. I described to them my conversation with Mr. Mosley and the document received from Mr. Mosley. They asked if I recalled the landfill procurement matter. I said I could recall much of the process but would need documents to refresh my memory. They asked if I could review documents and comment related to the City's intent at that time related to acquiring the landfill. I said I could.

For the record I do not have any conflict of interest with any of the parties involved in this matter. My intention is to assist the City to the extent I can.

Historical Information

During my City employment serving as the Deputy Director, Department of Public Utilities I was assigned to by the Department Director and the Mayor to develop a solid waste landfill acquisition process. This assignment developed because the City had two landfills that were either near capacity or in a politically unwanted in its location.

A private solid waste firm approached the City with a proposal to site, construct and operate a landfill. They had a well-developed proposal with a disposal rate. Rather than accept a sole source proposal, the Department of Public Utilities recommended to the Mayor and key City Council members that a comprehensive transparent request for proposal (RFP) process be used to acquire landfill capacity. The Mayor and Council agreed to this approach. But, they first wanted firms pre-qualified. This step did occur leading to the adoption of Ordinance 89-1179-669.

As part of the RFP process, a "Landfill Procurement Evaluation Committee" was responsible for preparation of all principles, specifications, evaluation and other elements of the RFP and contract documents. I served as Chairman of this committee. I was intimately and directly involved with all aspects of this process.

In the RFP, Information for Proposers, 2. Interpretation, I was identified as the Owners representative for "all questions about the meaning or intent of the Owner (City of Jacksonville) documents." As the Owners representative for the RFP process and as Chairman of the Landfill Procurement Evaluation Committee I am providing further information regarding the meaning and intent of the process.

The City of Jacksonville Council accepted the recommendation to the Mayor from the Landfill Procurement Evaluation Committee and the Department of Public Utilities to select Waste Management, Inc. dba Trail Ridge Landfill, Inc. and negotiate a contract. Contracts were negotiated and implemented.

Question

It is my understanding from information received from Mr. Mosley and the Counsels office that a question has arisen regarding the intent of the City for the ongoing construction and operation future landfill capacity. Apparently, the Mayors Office has negotiated a contract renewal with the current Contractor that they believe is a "good deal" but other solid waste companies believe they can provide a better deal for the City and are requesting a bid process.

The most important principle that I can present first is that the basic requirement in the RFP process is that the City own the entire property and pay for the capital outlay. Two reasons are cited for this decision. One, it was thought likely the City would have long-term environmental liability for the site; two, ownership of the property gives the City control over future decisions beyond the 20-year project period regarding construction and operation of future landfill capacity. The 20-year project contract period was defined as the initial 5-year period and three subsequent periods of five years.

In this situation, it was thought that ownership provided the City (Mayor and Council) with decision rights on the site beyond the 20-year project period if they chose to go in a different direction. That is, at the end of the 20-year project the City as Owner could negotiate the current vendor and extend the contract following negotiations for landfill capacity and operation or elect to bid for additional capacity. The RFP and bidding process contemplated that in the final 5-year expansion period there would be remaining constructed landfill capacity. In that instance, a salvage value calculation would be used. The salvage value concept was explained in the bidding documents.

During the RFP addendum process, certain questions were asked and answered that provide more clarification to this principle. As the Landfill Procurement Evaluation Chair, I issued two letters defining the volumetric capacity of the facility. The 20-year contract period of the project is defined by this capacity.

For example, I prepared and communicated a clarification letter to all vendors concerning "Airspace Volumes/Landfill Useful Life" dated April 25, 1990. It was recognized by the Landfill Procurement Evaluation Committee that each technical submittal may have different designs that would also reflect different volumes and capacities. So, this letter stated the design loading and daily project tonnage. The overall purpose was to make comparisons between each bidders design capacity for the required fixed daily tonnage for the 2-year period.

A May 4, 1990 letter was directed to me, as the Chairman of the Landfill Procurement Evaluation Committee, from England, Thims & Miller, a engineering firm, that I believe represented Waste Management, Inc. Their letter sought further clarification, stating that they felt my April 25, 1990 letter conflicted with Ordinance 89-1179-669. In a response to this letter, which went to all bidders, clearly stated in #2 "...coupled with imprecision of population and waste generation over a twenty-year period (intended useful life of the North/West facility)..." and further explains the reason for volumetric measurements.

In item #3 of the same letter we re-stated that the assessment of the volumes was consistent with Ordinance 89-1179-669. Using 1800 tons/day as the loading factor would be used the criteria for evaluating proposals.

Throughout the RFP process the Landfill Procurement Evaluation Committee received from all bidders requests for clarification.

In Addendum No. 1, Item No. 8 is an example of the meaning and intent of the capacity question and decisions for future landfill capacity. In response to a bidders questions, the Committee stated "...the possibility exists that future operation of the landfill may be by a firm other than the firm that constructed the facility."

After receiving the bidding documents the Landfill Procurement Evaluation Committee prepared a comprehensive "Report on Evaluation of Proposals and Recommendation of the Most Qualified Firm".

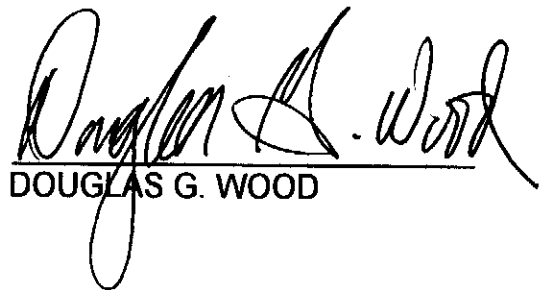
On page 48, evaluation of the design for the proposed Trail Ridge Landfill submitted by Waste Management, Inc. states "capacity marginally exceeds the Ordinances requirement of twenty years..."

Another, example is found in Addendum No. 2. Item No. 7. The fundamental principle is that the facility life would be 20-years measured in 5-year increments. At the end of the 20-year period the remaining constructed but unused capacity would have a salvage value. Salvage value, present worth analysis and operating costs were criteria for the RFP evaluation.

Beginning on Pages III-1 through III-6 is an explanation of the evaluation of these criteria. The evaluation focused on the initial 5-year increment and the subsequent three expansions to cover the 20-year period. This evaluation recognized the staged construction implementation of the facility as three discrete expansions following the initial 5-year period of the facility.

Beginning at Page-7, D., the evaluation explanation describes the evaluation of the "Operating Costs" using projected annual loading and initial year's operating costs. Further it describes the calculation of the salvage value at the end of the twenty-year project period. Bidders signed a statement in their submittals agreeing to this understanding of the RFP.

It was the intention of the Landfill Procurement process to have bidders submit proposals consistent with the RFP. The intent of the RFP was to provide landfill capacity for a twenty-year period. The City of Jacksonville selected a qualified bidder and entered into a contract for the 20-year period. The City financed capital requirements to acquire all of the property. The selected vendor would, following construction of the initial 5-year increment, operate the facility. The RFP and process contemplated that the same vendor though would construct and operate subsequent increments (three expansion increments past the initial 5-year period) but it did leave the door open to change vendors if required during this 20-year period. Following the 20-year period it was contemplated that the City would negotiate with the current vendor for continued expansion or re-bid for facility expansion.


DOUGLAS G. WOOD

STATE OF MICHIGAN
COUNTY OF KENT

SWORN TO AND SUBSCRIBED before me this 9th day of April,
2009.


NOTARY PUBLIC

JOLYNN S. KLEYNEBERG
Print Name

My commission expires: 7-21-10