

# Appendix B

## Definitions

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Unless the context clearly indicates otherwise, the terms below are defined for this RFP as follows:

“Acceptable Waste” means municipal solid waste, special wastes, and Class 2 and Class 3 industrial wastes, dead animals, regulated asbestos containing material (RACM), Non-RACM, empty containers, municipal hazardous waste from a conditionally exempt small quantity generator, and sludges, grease trap waste, grit trap waste, or liquid waste from municipal sources, Class 2 and Class 3 industrial waste, and wastes classified as Class 1 only because of asbestos content.

“Adjustment Factor” means the methodology to adjust certain costs, prices, and fees using the Municipal Cost Index, Consumer Price Index or any combination there-of.

“Agreement” means the Waste Collections Operating Agreement and the bond, letters of credit or other financial guarantees required, together with any and all addenda, appendices, attachments, exhibits, amendments, change orders or modifications of the foregoing documents agreed to by the parties in writing unless otherwise designated for informational purposes only.

“Appendix” or “Appendices” means any exhibit, appendix, attachment, form, schedule or annex, which is attached to, incorporated in, or made a part of the RFP, the Lease, or the Agreement.

“Applicable Laws” means any Permits, issued for or with respect to the City of San Angelo Landfill (or any component thereof) and/or issued for or with respect to the performance by a Party of its obligations hereunder, and any statute, law, constitution, charter, ordinance, resolution, judgment, order, decree, rule, regulation, directive, interpretation, standard or similar legally binding authority, which in any case, shall be enacted, adopted, promulgated, issued or enforced by any Governmental Entity that relates to or affects the City, the Lessee and/or the City of San Angelo Landfill (or any portion thereof) or City Collector, or the performance by a Party of its obligations hereunder.

“Area Tipping Fee” is the fee charged to haulers for tons of solid waste originating outside Tom Green County disposed of at the Landfill.

“Area Tipping Fee Payment” is the portion of the Area Tipping Fee paid to the City by the Lessee for each ton of solid waste disposed at the Landfill originating outside the municipal boundary of the City of San Angelo, but within Tom Green County, for the prior month.

“Bulk Waste” means solid waste that is too large, heavy or bulky to be collected during normal Garbage collection, including but not limited to refrigerators, stoves, water heaters, other large appliances, and materials resulting from minor remodeling by the householder except for roofing materials and materials generated by contractors.

“Business Day” means the first calendar day of each month excepting Saturdays, Sundays, and

City holidays.

“C & D” means waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, bricks and masonry, paper, cartons, gypsum board, wood, excelsior, rubber, and plastics.

“Citizen Free Dumping” means program by which the residential citizens of the City of San Angelo meeting all qualifications required can dispose of self-haul waste at the Landfill free of charge.

“Citizen Convenience Center” means a facility which includes a vehicle receiving area and various bulk containers for deposit of selected waste and Recyclables so as to provide City residents with one-stop, drop-off service for deposit of Municipal Solid waste and Recyclables.

“City” means the City of San Angelo, Tom Green County, Texas.

“City Fault” means any breach, failure, non-performance or non-compliance by the City with the terms and conditions of the Lease or Agreement.

“City Collector” means the solid waste hauler and/or residential recyclables hauler who by contract, license or otherwise is authorized by the City to collect waste or recyclables within the municipal boundary of the City of San Angelo.

“City Collector Waste” means solid waste delivered to the Landfill by the City Collector providing collection service under the City Collector designation. The source of all City Collector Waste will be from within the municipal boundary of the City of San Angelo.

“City of San Angelo Landfill,” “Landfill,” or “Premises” means the City-owned landfill, located at 3002 Old Ballinger Highway, San Angelo, Texas, and all other real property that may now or in the future be acquired for landfilling operations as designated by the City, and all improvements and appurtenances thereto.

“City of San Angelo Waste” means waste delivered to the Landfill via City trucks, pickups, or trailers, or approved contracted trucks, vehicles, and trailers.

“City Waste” means all solid waste originating from residences, institutions, and all commercial establishments within the municipal boundary of the City of San Angelo.

“Closure” means the services necessary to physically close the City of San Angelo Landfill in accordance with Applicable Laws and the Landfill Permits, and the provisions contained in the Lease or Agreement.

“Collect” means to collect and remove solid waste or Recyclables for transport elsewhere, or cause such to be done.

“Commission” or “TCEQ” means the Texas Commission on Environmental Quality, its predecessor agency, the Texas Natural Resource Conservation Commission, and/or any other predecessor agency as the context may require.

“Commission Permit” means the Commission issued Permit Number MSW 79 relating to the City of San Angelo Landfill as the same may be amended, modified and supplemented from time to time.

“Contract Date” means the date of execution and delivery of the Lease or Agreement by the City after it has been executed by Lessee.

“County Tipping Fee” is the fee charged to haulers for tons of solid waste originating outside the municipal boundary of the City of San Angelo, but within Tom Green County, disposed of at the Landfill.

“County Tipping Fee Payment” is the portion of the County Tipping Fee paid to the City by the Lessee for each ton of solid waste disposed at the Landfill originating outside the municipal boundary of the City of San Angelo, but within Tom Green County, for the prior month.

“Current Landfill Permits” means those permits, including but not limited to the Commission Permit, licenses and approvals currently in effect naming the City as permittee relating to the operation of the City of San Angelo Landfill as a Type I Landfill.

“Day” means calendar day, unless otherwise specified.

“Disposal or Disposal Services” means the dumping or deposition of solid waste into or onto a Disposal Facility so that the waste or any constituent thereof is introduced into the environment.

“Disposal Facility” means a sanitary landfill or other solid waste disposal facility permitted by the Commission and/or other applicable regulatory agency with jurisdiction and utilized for the receipt or final disposition of Solid waste.

“Environmental Laws” means all Local, State, and Federal statutes, regulations, orders, directives and common law concerning public health and safety, nuisance, pollution and protection of the environment.

“Garbage” means Solid Waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

“Government Approvals” means all licenses, certificates, permits and approvals required from any Governmental Entity for operation or expansion of the City of San Angelo Landfill or the performance of the Lessee’s obligations under the Lease.

“Governmental Entity” means, as appropriate, any one or several of any court of competent jurisdiction, the United States of America, the State of Texas and/or any appropriate jurisdiction over the Lessee or the City or their activities relating to the City of San Angelo Landfill; or any agency, authority, regulatory body or subdivision of any of the above as may have jurisdiction over or power and authority to regulate the City, the Lessee, the City of San Angelo Landfill or the operation thereof, the transfer, transportation, or

disposal of Solid waste or any services or utilities related to any of the foregoing.

“Guarantor” means the Person guaranteeing the performance and payment obligations of the Lessee to the City.

“Guaranty” means the Guaranty Agreement, a copy of which is attached to the Lease or Agreement.

“Hauler” means any person, business, or entity carrying waste for disposal.

“Hazardous Waste” means any solid waste characterized, identified or listed as a Hazardous Waste by the administrator of the United States Environmental Protection Agency (EPA) pursuant to the Federal Solid Waste Disposal Act, as amended.

“Household Waste” means any solid waste (including garbage and trash, but excluding sanitary waste from septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas) but does not include yard waste or brush.

“Industrial Waste” means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations, classified as follows:

“Class 1 Industrial Solid Waste or Class 1 Waste” is any industrial Solid waste designated as Class I by the Commission and/or any industrial Solid waste or mixture of industrial Solid wastes that because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste, as defined in State or Federal law relating to definitions and determinations of Waste Classification. Class I waste will not be accepted at the Landfill.

“Class 2 Solid Waste” is any individual solid waste or combination of industrial solid wastes that cannot be described as Class 1 or Class 3, as defined in State or Federal law relating to definitions and determinations of Waste Classification which the Landfill may accept with approval from the Lease Administrator.

“Class 3 Industrial Solid Waste” is any inert and essentially insoluble industrial Solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable as defined in State or Federal law relating to definitions and determinations of Waste Classification.

“Initial Term” has the meaning as determined by the City in accordance with Section C7.1 of Appendix C.

“Landfill Expansion” refers to any expansion or development of any site currently permitted or to-be permitted for landfilling services.

“Landfill Permits” means the Current Landfill Permits, as the same may be modified, amended

and supplemented from time to time.

“Landfilling” means the dumping or disposal of waste at a landfill.

“Lease” as used herein means the Lease and Operating Agreement for the City of San Angelo Landfill and the bond, letters of credit or other financial guarantees required, together with any and all addenda, appendices, attachments, exhibits, amendments, change orders or modifications of the foregoing documents agreed to by the parties in writing unless otherwise designated for informational purposes only.

“Lease Payment” means the annual fee payable by the Lessee to the City for the right to operate the City of San Angelo Landfill.

“Lessee” means City’s selected contractor to lease and operate the Landfill.

“Mandate” means an expenditure or action imposed on the City or Lessee by the Federal, State, or local government, or their respective agencies, that is directly related to the operation of a landfill, mandatory in nature, and adopted or implemented subsequent to the execution of the Lease or Agreement. Mandate shall not include any costs relating to the Landfill Expansion.

“Medical Waste” means solid waste generated by health-care-related facilities and associated with healthcare activities, not including garbage or rubbish generated from offices, kitchens, or other non-health-care activities. The term includes special waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in 25 TAC §1.132 (Definition, Treatment, and Disposition of Special Waste from Health-Care Related Facilities) or any successor. The term does not include waste produced on farmland and ranchland as defined in Agriculture Code, §252.001(6) (Definitions--Farmland or ranchland) or any successor, nor does the term include artificial, nonhuman materials removed from a patient and/or requested by a patient, including but not limited to orthopedic devices and implants.

“Monitoring Well” means an artificial excavation constructed to measure or monitor the quantity or movement of substances, elements, chemicals, or fluids below the surface of the ground. The term shall not include any monitoring well which is used in conjunction with the production of oil, gas (except landfill gas), or any other minerals.

“Municipal Boundary” means the outermost boundary of the City of San Angelo as reflected in the Official Zoning Map maintained by the City in the office of the GIS Manager.

“Municipal Solid Waste” or “MSW” means Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes Garbage, Rubbish, ashes, street cleanings, and other Solid waste other than Industrial Waste.

“Municipal Tipping Fee” is the fee charged to haulers for tons of solid waste originating within the municipal boundary of the City of San Angelo disposed of at the Landfill.

“Municipal Tipping Fee Payment” is the portion of the Municipal Tipping Fee paid to the City by the

Lessee for each ton of solid waste disposed at the Landfill originating within the municipal boundary of the City of San Angelo for the prior month.

“Non-City Waste” means all acceptable waste collected outside the municipal boundary of the City of San Angelo. Non-City Waste does not include materials received free, or bought by the Lessee and used by the Lessee for daily cover, alternative daily cover, intermediate cover, all construction and/or final cover.

“Operating Year” means a one-year period commencing on the Operation Commencement Date or any anniversary thereof.

“Operation Commencement Date” means the first date upon which all of the conditions precedent set forth in the Lease or Agreement shall be satisfied or waived as agreed to in writing by the Parties such that the Lease or Agreement and operations thereto are in effect.

“Parties” mean the City and Lessee.

“Pass-Through Expense” means fees, charges, or tariffs imposed by the Federal, State or local government, or their respective agencies, after the Commencement Date of the Lease, that operators of public landfills must collect from users of a public landfill and remit to the appropriate government agency.

“Permits” means the applicable approvals, permits, authorizations, registrations, certifications, and licenses issued by Governmental Entities required by the Lessee for the operation and maintenance of the City of San Angelo Landfill, and with respect to any other obligations necessary to be carried out under the Lease.

“Person” means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Governmental Entities.

“Processing Facility” means a Facility whose activities include, but are not limited to, the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of Solid waste for reuse, Recycling or Disposal, including the treatment or neutralization of Hazardous Waste, designed to change the physical, chemical, or biological character or composition of any Hazardous Waste to neutralize such waste, or to recover energy or material from the waste, or to render such waste non-hazardous or less hazardous; safer to transport, store, dispose of, or make it amenable for recovery, amenable for storage, or reduced in volume. Unless the City determines that regulation of such activity under these rules is necessary to protect human health or the environment, the definition of “processing” does not include activities relating to those materials exempted by the Commission or the Executive Director of the Commission.

“Proposer” means a party that submits a proposal in response to City of San Angelo RFP OP-01-14.

“Purchasing Agent” means the person designated by the City with the responsibility to communicate with the Respondents concerning RFP OP-01-14.

“Recyclables” means material that has been recovered or diverted from the non-hazardous Solid Waste stream for purposes of reuse, Recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products, which may otherwise be produced using raw or virgin materials. Recyclables is not solid waste. However, Recyclables may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the person actually abandoning or disposing of the material.

“Recycling” means a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete, are collected, separated, ground or processed and returned to use in the form of raw materials used in the production of new products or for any beneficial purpose. Except for mixed Municipal Solid waste composting, that is, composting of the typical mixed Solid waste stream generated by residential, commercial, and/or institutional sources, Recycling includes the composting process if the compost material is put to beneficial use.

“Refuse” has the same meaning as Rubbish.

“Renewal Term” includes the any term of extension of the Lease or Agreement beyond the initial term.

“Representative” means any person or organization, whether in a paid or voluntary status, working in conjunction with a particular Proposer to promote the interests of that Proposer.

“Residential Waste” means Municipal Solid Waste discarded by single-family homes, dwellings, or apartments.

“Royalty Fee” means the fee payable to the City by the Lessee for each Ton of Non-City Waste delivered to and accepted for Disposal at the Landfill by the Lessee.

“Rubbish” or “Refuse” means non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials.

“Self-Haul Waste” means waste brought to the Landfill by personal transportation by a citizen of the City of San Angelo or individual residents outside the municipal boundary.

“Solid Waste” means any garbage, rubbish, sludge from a wastewater treatment plant, water supply treatment plant, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include: solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Texas Water Code; soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under the Texas Natural Resources Code.

“Solid Waste Administrator” means the person designated by the City to administer the Lease or Agreement on behalf of the City.

“Special Circumstance Waste” means all solid waste delivered by or generated by persons exempted from paying Disposal fees or by Persons paying a reduced rate on Disposal fees by City ordinance or resolution.

“Special Waste” means waste that is defined as such by applicable state or Federal regulation and which because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or environment. Special Waste shall include dead animals.

“State” means the State of Texas.

“Suspicious Waste” means waste which the Lessee reasonably suspects may be Unacceptable Waste.

“Term” means the Initial Term and any Renewal Term of the Lease or Agreement.

“Tipping Fee Payment” means payment pursuant to the Lease made by the Lessee to the City by the net ton of waste carried across the scales at the Landfill.

“Ton” means a short ton of 2,000 pounds.

“Treated Medical Waste” means waste from health care-related facilities that has been treated in accordance with the procedures specified by State laws or regulations and which has been identified and packaged in accordance with State law and regulations.

“Trust Instrument” shall be the instrument to guarantee closure – post closure funds for the City of San Angelo Landfill.

“Trust Payment Factor” monetary rate by which the tons of waste landfilled for the immediately preceeding month is multiplied to determine the Closure and Post Closure Trust Payment.

“Type I Landfill” means a landfill permitted to accept Type I Waste.

“Type I Waste” means Municipal Solid waste.

“Type IV Waste” means brush such as tree and shrub limbs and trimmings, C&D, and/or Rubbish that are free of putrescible waste and Household Waste.

“Unacceptable Waste” means any and all waste, including but not limited to Hazardous Waste, Medical Waste (other than Treated Medical Waste) and asbestos, the acceptance and handling of which by Lessee would cause a Violation of any Landfill Permits or Applicable Laws, cause substantial damage to all or any portion of the City of San Angelo Landfill or any improvements thereon or equipment used in connection therewith, Lessee’s equipment or facilities, or present a substantial danger to the health or safety of the public or



the Lessee's or the City's representatives, agents or employees.

"USC" means United States Code.

"Useful Life" means the period of time ending when the available airspace under Commission Permit MSW No. 79 for Solid Waste Disposal, as it currently exists or may be modified in the future, is exhausted.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or other rolling stock used in operation of the City of San Angelo Landfill.

"Violation" means any determination by a Governmental Entity, after notice to and permitted contest by the City, the Lessee or other operator of the City of San Angelo Landfill, that the City, the Lessee or such other operator of the City of San Angelo Landfill is in violation of or not in compliance with any portion of the Landfill Permits or Applicable Laws under its jurisdiction; however, an Alleged Violation Resolved shall not constitute a Violation.

"Yard Waste" means leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material not greater than four inches in diameter, that result from landscaping maintenance and land-clearing operations. The term does not include stumps, roots, or shrubs with intact root balls.