

ADVERTISEMENT
Municipal Sludge Transport and Disposal

Sealed bids will be received by the Board of Estimate and Apportionment of the City of Middletown, New York, at the office of the Department of Public Works until 4:30 PM, January 31, 2019, for the transport and disposal of municipal sludge as generated by the City of Middletown Wastewater Treatment Plant, FOB by City Forces.

The bids shall be for a three (3) year contract with three (3) additional one (1) year terms, subject to the City's potential obligations under other existing agreements.

Bids will be publicly opened and read at 4:30 PM, January 31, 2019.

Bid Package for the aforementioned item is on file and publicly exhibited at the office of Public Works, City of Middletown, 16 James Street, Middletown, NY 10940. The said package may be obtained from the City of Middletown, Department of Public Works, 16 James Street, Middletown, NY 10940, (845) 343-3169.

Each bid from a Contractor must be accompanied by an Assurance of Financial Stability and proof of Capability for taking on this contract as accepted by the City. A minimum of five years of similar experience is required. These documents will be evaluated by the City Attorney and Commissioner of Public Works for being satisfactory. Their opinion/evaluation is final.

The required proofs shall be substantially conditioned to provide that the Contractor shall faithfully perform the Contract on his part, and shall satisfy all claims and demands incurred for the same, and shall indemnify the City against any and all claims for damage on account of work performed under the Contract.

Contractors to provide all required Certifications, certified receipts and reports as required by regulating agencies and the City, such as but not limited to EPA, DOT, DEC as specifically required in 40 C.F.R. §503 on or before February 1 of each year.

The Contractor shall procure and maintain, at his expense, for the life of the Contract with the City of Middletown of the work covered by the Contract, liability insurance and Workmen's Compensation for bodily injury and property damage, and said insurance shall be kept in full force and effect by the Contractor by payment of the required premiums during the term of the work performed under the Contract.

Pursuant to General Municipal Law § 108, the bidder stipulates and agrees that any agreement shall be void and of no force or effect unless the person, entity or corporation making or performing such agreement secure compensation for the benefit of, and keeps insured during the life of such agreement its employees, in compliance with the Workers' Compensation Law.

The Contractor shall furnish promptly upon demand by the City of Middletown proof that said

insurance remains in full force and effect.

The Contractor's failure to procure or maintain said insurance shall constitute an act of default and entitle the City of Middletown to terminate the Contract (as set forth in General Conditions, Article XIII) or, at the City of Middletown's sole discretion, shall entitle the City of Middletown to procure and maintain such insurance on behalf of the Contractor and at the Contractor's sole expense, and to charge the costs of all premiums against the Contractor's payment requisitions for the period in question.

All bids shall be submitted subject to the following conditions:

1. The City of Middletown reserves the right to reject any or all bids and re-advertise for new bids.
2. All bidders shall submit proof of responsibility, Financial Stability, experiences, and Capabilities as required by the City of Middletown.
3. Each bid must contain the certificate of non-collusive bidding required by Section 103-d of the General Municipal Law, relating to non-collusion.
4. No bids shall be withdrawn for a period of forty-five (45) days after the receipt thereof, without the consent of the City of Middletown.
5. The bidder shall make allowance in his bid for any price increase in labor and materials. Requisitions for work and/or material shall be at the price bid with no additional charges for such increases.

By Order of

THE BOARD OF ESTIMATE AND APPORTIONMENT

Jacob Tawil, P.E.
Commissioner of Public Works

GENERAL MUNICIPAL LAW

Section 103-d

NON-COLLUSIVE BIDDING CERTIFICATE

"(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- 1). The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- 2). Unless otherwise required by law, the prices which have been quoted in this bid have been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor;
- 3). No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."

NAME OF BIDDER

BY: _____

Address

ACCEPTED:

DATE: _____

IF THE BIDDER IS A CORPORATION, FILL OUT THE FOLLOWING:

Resolved that _____
be authorized to sign and submit the bid or proposal of this corporation for the
following project: _____
and to include in such bid or proposal the certificate as to non-collusion required by
section one-hundred three-d (103-d), of the general municipal law as the act and deed
of such corporation, and for any inaccuracies or misstatements in such certificate, this
corporate bidder shall be liable under the penalties of perjury.

The foregoing is a true and correct copy of the resolutions adopted by

Corporation at a meeting of its Board of Directors held on the _____ day of
_____, 2019.

Seal of the Corporation

SECRETARY

Dated: _____

BIDDER

SPECIFICATIONS FOR THE TRANSPORT AND DISPOSAL OF MUNICIPAL SLUDGE AS GENERATED BY THE CITY OF MIDDLETOWN WASTEWATER TREATMENT PLANT, FOB BY CITY FORCES.

City of Middletown Wastewater Treatment Plant produces approximately +/- 350 to 820 tons per month. These quantities are given as an indication only. Final quantities may vary.

Biosolids: for belt presses: for both Anaerobic Digested Sludge and Activated Sludge.

Bidder must be aware of, have, and furnish to the Commissioner of Public Works' satisfaction:

- all necessary permits to haul biosolids.
- two (2) tipping locations, certified/licensed by State Agencies and EPA for accepting sludge for the maximum duration of this contract.
- hauler supplies bill of lading.
- City of Middletown has **NO** scale.
- supply two (2) trailers on site. (One duty and one stand-by)
- supply a yard truck to move trailers.
- contract for three (3) years with three additional one (1) year terms, subject to the City's requirement.
- required insurance.
- Sludge Analysis are available upon request at DPW offices.
- Hauling & Disposal Agreement and Exhibit "A" are attached and made part of this bid package.

INSTRUCTIONS TO BIDDERS

It is intended to receive bids on the transport and disposal of municipal sludge for the City of Middletown Wastewater Treatment Facilities, Middletown, New York.

Proposals shall be made upon the forms provided therefore. All blank spaces shall be fully filled in, and the signature shall be in longhand.

The competency and responsibility of bidders will be considered in making the award.

The attached specifications are minimum specifications and each bidder shall list on a separate page "exceptions" to our specifications and shall properly mark this page "EXCEPTIONS TO SPECIFICATIONS".

All portions of this bid: the Insurance to Bidders, Specifications and Proposal must be fully complied with to have a valid bid.

PROPOSAL

To the Board of Estimate and Apportionment
City of Middletown, New York

Gentlemen:

In accordance with the advertisement of January 9, 2019, instructions to bidders, the specifications and the information which I have inserted in answer to the questions asked, the undersigned, as bidder, proposes to furnish to the City of Middletown, NY, as follows:

Transport and disposal of municipal sludge as generated by the City of Middletown Waste Water Treatment Plant, FOB by City Forces.

a) For first three years for the sum _____
_____ (\$ _____)dollars/ton.

b) For additional first year extension for the sum _____
_____ (\$ _____)dollars/ton.

c) For additional second year extension for the sum _____
_____ (\$ _____)dollars/ton.

d) For additional third year extension for the sum _____
_____ (\$ _____)dollars/ton.

The above prices do not include any state or federal taxes.

NON-COLLUSIVE BIDDING CERTIFICATION. By submission of this bid or proposal, the bidder certifies that: (a) This bid or proposal has a been independently arrived at without collusion with any other bidder or with any competitor or potential competitor; (b) This bid or proposal has not been knowingly disclosed or will not be knowingly disclosed, prior to the opening of bids or proposals for this project, to any other bidder, competitor or potential competitor; (c) No attempt has been or will be made to induce any other person, partnership, or corporation proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing in its behalf.

The full name and business address of all persons and parties interested in the foregoing bid, as principals, are as follows:

Signature of Bidders

Business Address

Signature of Bidders

Business Address

Corporation Seal

Phone: _____

Fax: _____

Email: _____

Dated at _____ this _____ day of _____ 2019.

**MIDDLETOWN INTERIM
MUNICIPAL SLUDGE
SERVICES AGREEMENT – HAULING-DISPOSAL**

THIS MIDDLETOWN INTERIM MUNICIPAL WASTE SERVICES AGREEMENT -HAULING ("Agreement") is entered into this _____ between the CITY OF MIDDLETOWN, NEW YORK (the "City"), and (the "Contractor").

Background

1. Pursuant to N.Y. Gen. Mun. Law 103-d, the City desires to enter into an arrangement with the Contractor, whereby the Contractor agrees to undertake and assume responsibility for sludge hauling and disposal services from the Wastewater Treatment Plant ("Hauling – Disposal Services") in exchange for specified compensation to be paid for providing such services. Attached hereto as Exhibit A is the Hauling Services Plan for Acceptable Sludge of the City (the "Plan"), which is incorporated herein as if fully set forth.

2. The arrangement and any subcontracts contemplated or allowed by this Agreement are permitted under applicable New York law.

Agreement

In consideration of the foregoing and the respective obligations undertaken herein, and intended to be legally bound, the parties hereto agree as follows:

1. **DEFINED TERMS.** Capitalized terms used but not defined in this Agreement shall have the respective meanings given such terms in the form of Municipal Waste Management Services Agreement attached hereto as in the Plan.

2. **SCOPE OF SERVICES.** The Contractor shall itself, or through subcontractors approved by the City, and at the Contractor's sole cost and expense, furnish labor, equipment, materials, supplies and other facilities and things necessary or proper for, or incidental to, performance of the Hauling – Disposal Services required by, and in strict conformance with, the Plan. The City retains full responsibility for transfer station operations.

3. **ACCEPTANCE OF RESPONSIBILITY.** The Contractor hereby agrees to perform and be fully responsible for the Hauling – Disposal Services and further agrees to accept the compensation payable by the City hereunder.

4. **OPERATIONS.** The Contractor shall at all times conduct the Hauling – Disposal Services in accordance with (i) the Plan, (ii) the highest standard of operation required by any applicable law and governmental standards, and (iii) this Agreement. In the event of conflict among (i), (ii) and/or (iii), then the Contractor shall resolve the conflict by consultation and agreement with the City.

5. **EXAMINATION OF DOCUMENTS.** The Contractor agrees that, before submitting its proposal to the City to act as its contractor for Hauling – Disposal Services hereunder, the Contractor carefully examined the Plan and is

fully informed regarding all of the conditions affecting the work to be done, and the labor and materials to be furnished for the completion of this Agreement.

6. COMMENCEMENT OF SERVICES. The Contractor shall commence performance of Hauling – Disposal Services on the date on which the City and the Contractor agree in writing is the date to commence work hereunder and in any event no later than two (2) weeks from the date of the award letter (the "Commencement Date"). On such date, the Contractor shall have fully mobilized its work force, obtained and placed in position all necessary equipment, supplies and rolling stock. The City will give the Contractor all necessary access to the City WWTP on and after the Commencement Date, for such purposes. The contractor shall provide the City with two Designated Approved Disposal Facilities.

7. TERM. Subject to other possible superseding executory contracts. The term of this Agreement shall be until the earlier of the third anniversary, with three (3), one year terms renewal option of this Agreement. After the initial three (3) year term, with additional three, one year extension or in the event of default by the Contractor under the terms of this Agreement, the City may terminate this Agreement upon thirty (30) days' notice to the Contractor, or the superseding executory contract being executed.

8. BILLING AND PAYMENT.

(a) The City shall promptly remit to the Contractor, as payment in full for Hauling-Disposal Services to be performed under this Agreement, _____per Ton of Acceptable Sludge transported to the Approved Disposal Facility from the City WWTP.

(b) Paragraph is deleted in its entirety.

(c) The Contractor shall deliver to the City a billing statement for Hauling Services in mutually agreeable form no later than five (5) business days after the end of each calendar month during which Hauling-Disposal Services are provided, which invoice shall be paid by the City within fifteen (15) business days after receipt from the Contractor. The invoice shall set forth such information as is reasonably requested by the City.

(d) The Contractor shall prepare and deliver any annual settlement statement for Hauling-Disposal Services reasonably required by the City to be prepared and delivered, and participate in any audit reasonably required by the City.

9. ASSIGNMENT. The Contractor shall not assign, transfer, convey, or otherwise dispose of this Agreement, or any part thereof, or its right, title and interest therein or its power to execute the same, to any person, firm or corporation, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld.

10. INDEMNITY. The Contractor agrees that it will, and does hereby, protect and indemnify the City against and holds the City and its respective officers, employees and subcontractors (as applicable in the circumstances) (the " City Indemnified Parties") harmless from and against (and pay the full amount of) all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions, and reasonable

attorneys' fees (collectively, "Loss-and-Expense"), and will defend the City Indemnified Parties in any lawsuit or other legal action, including arbitration and appeals, for personal injury to, or death of, any person, or loss of or damage to property arising out of (1) the negligence, omission or wrongful conduct of the Contractor or any of its officers, members, employees, agents, representatives or subcontractors in connection with its obligations or rights under this Agreement, or (2) the performance or non-performance of the Contractor's obligations under this Agreement. The Contractor shall not, however, be required to reimburse or indemnify any City Indemnified Party for any Loss-and-Expense to the extent any such Loss-and-Expense is due to (a) the non-performance of obligations of the City hereunder, (b) the negligence or other wrongful conduct of any City Indemnified Party, (c) any Uncontrollable Circumstance, (d) any act or omission of any City Indemnified Party judicially determined to be responsible for or contributing to the Loss-and-Expense, or (e) any matter for which the risk has been specifically allocated to, or retained by, the City. A City Indemnified Party shall promptly notify the Contractor of the assertion of any claim against it for which it is entitled to be indemnified hereunder, shall give the Contractor the opportunity to defend such claim, and shall not settle the claim without the approval of the Contractor, which approval shall not be unreasonably withheld. These indemnification provisions are for the protection of the City Indemnified Parties only and shall not establish, of themselves, any liability to third parties, other than as accepted under this Agreement. The provisions of this Section 11 shall survive termination of this Agreement.

11. LIABILITY INSURANCE.

(a) The Contractor shall cause to be put in place and maintained during the term of this Agreement, and for a period of time after the termination of this Agreement equal to any applicable Statute of Limitations, the comprehensive liability insurance and other insurance coverage required by the City for Hauling Services, and the performance by the Contractor of its obligations under this Agreement, as set forth in the Plan.

(b) Insurance under this section shall be carried and maintained with an insurer reasonably acceptable to the City and authorized to do business in the State of New York by the State Insurance Department and recognized by Best's Insurance Companies. The Contractor shall cause the City to be named as an additional named insured on each policy required to be maintained under this Agreement, and shall furnish to the City satisfactory proof that the City is so named as additional insured. This proof shall be by way of a Certificate of Insurance or such other document as may be reasonably required by the City. Certificate of Insurance forms may be updated as industry practice determines. All Certificates of Insurance must be attached to this Agreement.

12. COMPLIANCE WITH LAWS AND ORDINANCES. The Contractor shall observe and obey all federal, state, county and local laws, ordinances, codes and regulations relating to the performance of this Agreement.

13. REPRESENTATIONS OF CONTRACTOR. The Contractor represents and warrants:

(a) Existence and Powers. The Contractor is duly organized and validly existing as a _____ under the laws of the State of New York, with full legal right, power and authority to enter into and perform its obligations under this Agreement, and the Contractor is duly authorized by the State of New York to do business in the State of New York.

(b) Due Authorization and Binding Obligation. The Contractor has duly authorized the execution and delivery of this Agreement. This Agreement has been duly executed and delivered by the Contractor and constitutes the legal, valid and binding obligation of the Contractor, enforceable against the Contractor in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.

(c) No Conflict. The execution and the delivery by the Contractor of this Agreement, and the performance by the Contractor of its obligations hereunder, does not (1) conflict with, violate or result in a breach of any law or governmental regulation applicable to the Contractor, or (2) conflict with, violate or result in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of the Contractor) or instrument to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument.

(d) No Litigation. There is no action, suit or other proceeding as of the date hereof, at law or in equity, before or by any court or governmental authority, pending or, to the Contractor's best knowledge, threatened against the Contractor which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the execution or delivery of this Agreement or the validity or enforceability of this Agreement or any other agreement or instrument entered into by the Contractor in connection with the transactions contemplated hereby, or which would materially and adversely affect the performance by the Contractor of its obligations hereunder or by the Contractor under any such other agreement or instrument.

(e) No Legal Prohibition. The Contractor has no knowledge of any applicable law in effect on the date as of which this representation is being made which would prohibit the performance by the Contractor of this Agreement and the transactions contemplated hereby other than the need to obtain all proper authorizations necessary for performance of the Hauling Services hereunder.

14. REPRESENTATIONS OF CITY. The City represents and warrants:

(a) Due Authorization and Binding Obligation. The City has duly authorized the execution and delivery of this Agreement and all related agreements, including, but not limited to the agreement for access to the Designated Disposal Facility (collectively, the "Related Agreements"). This Agreement has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors rights generally.

(b) Municipal Law and Agreement Compliance. The City has taken all action required under N.Y. Gen. Mun. Law, including N.Y. Gen. Mun. Law to select the Contractor under the Procurement and to enter into this Agreement and the Related Agreements. All of such actions are legally binding and enforceable against the City.

(c) No Conflict. Neither the execution nor delivery by the City of this Agreement and the Related Agreements nor the performance by the City of its obligations hereunder (1) conflicts with, violates or results in a breach of any law of governmental regulation applicable to the City, (2) conflicts with, violates or results in a breach of any term

or condition of any judgment, decree, agreement (including, without limitation, the organization documents of the City) or instrument to which the City is a party or by which the City or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument, or (3) will result in a creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of the City.

(d) No Litigation. There is no action, suit or other proceeding as of the date hereof, at law or in equity, before or by any Court or governmental authority pending, or, to the City's best knowledge, threatened against the City which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the execution and delivery of this Agreement or the Related Agreements, or the validity or enforceability thereof, or which would materially and adversely affect the performance by the City of its obligations hereunder or by the City under any other such Agreement or instrument.

(e) No Legal Prohibition. The City has no knowledge of any applicable law in effect on the date as of which this representation is being made which would prohibit the performance by the City of this Agreement, the Related Agreements and the transactions contemplated hereby.

15. DISPUTE RESOLUTION. If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be settled through discussions, such dispute shall be settled in Court.

16. NOTICES. Any notices or communication required or permitted hereunder shall be in writing and deemed sufficiently given (i) when delivered by hand, (ii) when transmitted by facsimile (subject to confirmation by the method described in clause (iii)), on the business day next following deposit with a nationally recognized overnight delivery service, fee prepaid, or (iii) on the third business day following deposit with the United States Postal Service, by certified or registered mail, postage prepaid, as follows:

To the City:

If by Facsimile: (845) 343-7439

(addressed as below)

If by Hand, Mail or Overnight Delivery Service: 16 James
Street

Middletown, New York 10940

Attn: Joseph M. DeStefano, Mayor Telephone: (845)
346-4100

Changes in the respective facsimile numbers or addresses to which such notices may be directed may be made from time to time by any party by written notice to the other party.

17. ARTICLE AND SECTION CAPTIONS: REFERENCES. The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof. Except as otherwise indicated, all references herein to Sections and Articles are to sections and articles to this Agreement.

18. SEVERABILITY. In the event that any provisions of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement, as so amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

19. AMENDMENT. No amendment, modification or change to this Agreement shall be effective unless same shall be in writing and duly executed by the parties.

20. GOVERNING LAW. This Agreement shall be governed by the laws of the State of New York.

21. NO OTHER AGREEMENTS. All negotiations, proposals and agreements prior to the date of this Agreement are superseded hereby except as noted in this Agreement. This Agreement shall constitute the entire agreement between the City and the Contractor with respect to all services contemplated hereby.

22. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure the benefit of the respective successors, permitted assigns of the Contractor and the City.

IN WITNESS WHEREOF, this Agreement has been executed by the City and the Contractor on the day and year first above written.

City of Middletown

By: _____

Notary Public

City of Middletown

By: _____

Notary Public

Exhibit A

HAULING--DISPOSAL SERVICES PLAN

FOR ACCEPTABLE SLUDGE OF

CITY OF MIDDLETOWN

The City through its Department of Public Works owns and operates a registered Municipal Solid Waste Transfer Station in accordance with 6NYCRR Part 360-1 I.I (b) (I). Municipal Dewatered Sludge being produced at the City WWTP transported to an approved permitted disposal facility by the City's Hauling and Disposal contractor for municipal sludge disposal services and/or any of the prime contractor's subcontractors.

The following operations will be the responsibility of the City's prime contractor for dewatered (>10% solids) sludge disposal services and/or the prime contractor's subcontractors:

1. Providing licensed and trained personnel to operate tractors and trailers for hauling sludge and disposal of same.
2. Providing and/or obtaining all needed permits to transport sludge as prescribed by any and all applicable federal, state and local laws, rules and regulations.
3. Notifying the City of weight limitations applicable to each transfer trailer used.
4. Providing copies of the driver training, drug testing and safety programs provided to hauler employees.
5. Providing in sufficient number, tractors and trailers in good working order and capable of transporting sludge to the Designated Disposal Facility. (The number specified herein is an approximation only).

6. Maintaining sufficient insurance coverage with limits as prescribed by law.
7. Providing proof of insurance coverage, and naming the City and its employees and agents, as additional named insured and Certificate holder as requested.
8. Providing weigh tickets from the Approved Designated Disposal Facility for all loads removed from the transfer station.
9. Providing general assistance to the City for record keeping and the smooth operation of the sludge hauling and disposal operation.