



June 13, 2014

Mr. Dave McNary
Hennepin County Department of Environmental Services Solid Waste & Energy Division
701 Fourth Avenue South, Suite 700
Minneapolis, MN 55416-1600

RE: Proposal for Hennepin Energy Recovery Center (HERC) – End of Term Negotiation
Support Proposed Scope of Work

Dear Mr. McNary,

HDR Engineering, Inc. (HDR) is pleased to present the following proposal to provide technical and management consulting services in support of the County's activities related to preparing and implementing its preferred course of action as its current operating agreement comes to an end.

PROJECT UNDERSTANDING

Pursuant to the Service Agreement between the County of Hennepin and Covanta Hennepin Energy Resource Co. LP, the Agreement will terminate on March 2, 2018. The County is seeking technical and management consulting support services to assist it in finalizing and implementing a preferred approach to meet the County's future needs and requirements taking into account the existing County assets, including the Service Agreement.

SCOPE OF SERVICES

The following provides a brief overview of the project scope with the efforts, key assumptions, and anticipated costs for providing technical and management consulting negotiation support to the County in finalizing and implementing its preferred approach to maximizing the value of the Facility through 2025. The proposed services include:

1. Assisting the County in completing its preferred Basis for Negotiation;
2. Working with the County and its legal advisors to prepare a Draft Terms sheet detailing key County expectations; and
3. Assisting the County in its negotiations with the current operator, Covanta Hennepin Energy Resource Co. LP in its good faith effort to secure from Covanta an amended agreement going forward that addresses the needs of the County.
4. If necessary and upon request, HDR is also prepared to assist the County in the preparation and issuance of an RFP, evaluation, selection and negotiations with a replacement operator. Note that this additional service is not included in the not to exceed pricing defined herein.

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Task 100: Completion of Basis of Negotiation and Preparation of Draft Terms Sheet

OBJECTIVE

The objective of this task is to work with the County to finalize its preferred positions regarding various aspects of service delivery under an amended/new agreement using the Basis of Negotiations outline attached as Appendix A. This Basis of Negotiation template will be used to develop a Draft terms sheet. The terms sheet will serve as the focal point of negotiations with Covanta around the extension of the existing agreement.

HDR ACTIVITIES

HDR will prepare a Draft Basis of Negotiation Template using the information categories outlined in Appendix A. The Template will be populated to provide the County with input on recommended approaches to achieving its defined objectives drawing on other service agreements (i.e. Lee County, Honolulu, Durham York and Dutchess County). It will address methods for managing contract compliance with defined operating, maintenance, repair and replacement provisions.

The County will review the completed Basis of Negotiation and provide comments to HDR.

The completed Basis of Negotiation will then be used to develop a Draft Terms sheet detailing the County's desired approach to achieving its objectives under the new/extended Service Agreement. HDR will prepare a draft list of key terms, or elements of key terms as guided by the County and its legal advisors such that the County's desired risk posture and expectations of performance by Covanta are clearly defined in terms of business, legal, technical, operational and regulatory performance levels.

The County will review the Draft Terms sheet, provide legal input where required and provide comments on the Draft terms sheet to HDR. HDR will provide input into the revised terms sheet.

TASK DELIVERABLES

The following deliverables will be part of this Task:

1. A Populated Draft Basis of Negotiation Worksheet
2. A Final Basis of Negotiation
3. A Draft Terms Sheet developed from the Basis of Negotiation Worksheet and
4. A Final Terms Sheet.

PLANNED CONFERENCE CALLS/MEETINGS

The following meetings/conference calls are expected to review the Basis of Negotiation:

Up to four (4) representatives of HDR will participate in up to a total of four one to two hour conference calls to review i) the Basis of Negotiations; ii) the revised Basis of Negotiation incorporating the County's comments; iii) the Draft Terms Sheet and iv) the Final Terms Sheet incorporating the County's comments.

KEY UNDERSTANDING / ITEMS

The following are the key understandings and items that are assumed:

1. We have budgeted a total of twenty-four hours for participation in the conference calls.
2. The County will provide one set of consolidated comments each on the Draft Basis of Negotiation and the Draft Terms Sheet.
3. The County's legal staff will oversee the preparation of the Terms Sheet, providing as applicable guidance on relevant legal aspects of the Terms sheet.

Task 200: Negotiations with Covanta

OBJECTIVE

HDR's objective is to assist the County in achieving its desired goal of entering into a modified service agreement covering through 2025 that meets the County's expressed needs regarding standards of performance, level of service, responsiveness and transparency. The objective of this task is to provide technical and management consulting support to the County during the negotiations with Covanta. Pursuant to the Service Agreement, the goal is to complete these negotiations within six months leading to either 1) successful completion of the process whereby the County and Covanta enter into an amended service agreement containing terms and conditions acceptable to the County or 2) determination that an extension under terms acceptable to the County is not achievable with Covanta.

HDR ACTIVITIES

Phase 1 of this Task will focus on completing a final Terms Sheet detailing the agreements reached between the County and Covanta. Phase 2 is the preparation of the revised Service Agreement.

HDR will perform the following activities:

Phase 1 Finalize Negotiated Terms Sheet

1. Assist the County in presenting the County's required terms and conditions
2. Review Covanta's responses/position
3. List negotiation issues and positions of parties
4. Work with the County to develop negotiating strategies
5. Evaluate negotiation position alternatives (technical, economic, compliance, etc.)
6. Participate in negotiation sessions and review negotiated drafts of the Terms Sheet
7. Draft negotiated technical changes to the Terms Sheet
8. Assist the County with the recommendation of the final terms of the terms sheet.
9. Prepare and participate in presentations to various stakeholders and decision makers.
10. As requested, focus on technical provisions of the terms sheet such as performance guarantees, operations and maintenance obligations, capital projects, major repair and replacement obligations, initial and final conditions assessments, and initial and final inventory of spare parts, supplies and tools.

TASK DELIVERABLES

The following deliverables will be part of this Task:

1. Responses to Proposed Terms Sheet revisions
2. Technical emails summarizing strategy, agreement language or evaluation of negotiation position alternatives.
3. Drafts of negotiated technical changes to the Terms Sheet
4. Final Terms Sheet

PLANNED MEETINGS/CONFERENCE CALLS:

For budgeting purposes, it is assumed that two representatives will attend three negotiation meetings. Additional HDR representatives may be available by conference call. In addition, up to four representatives will participate in related conference calls. The budget assumes four such calls.

KEY UNDERSTANDING / ITEMS

The following are the key understandings and items that are assumed:

- The County will provide a meeting space.

Phase 2 Preparation of Service Agreement

HDR will assist the County and its legal advisors in the transition of the Terms sheet into anew service agreement. HDR will provide applicable technical sections of the agreement. HDR will participate in meetings related to the preparation of the service agreement.

TASK DELIVERABLES

The following deliverables will be part of this Task:

1. Proposed Contract terms related to the technical and business aspects of the amended/new Service Agreement
2. Analyses of proposals/counterproposals to the extent they occur

PLANNED MEETINGS/CONFERENCE CALLS:

For budgeting purposes, it is assumed that two representatives will attend two Service Agreement meetings. Additional HDR representatives may be available by conference call. In addition, up to four representatives will participate in related conference calls. The budget assumes four such calls.

KEY ASSUMPTIONS

The County's legal team will lead the preparation of the Service Agreement.

To help limit travel costs HDR's not-to-exceed budget assumes:

- Telecommunications will be used to the greatest extent possible for communication among the County and HDR to discuss negotiating strategy and issues.
- To the extent it is efficient, telecommunications will be used to resolve negotiating issues with Covanta. (HDR has had success with the use of telecommunication in this manner during prior negotiations.)

HDR's role on the project is to facilitate the negotiations, advise the County of business, economic and technical matters, and to assist in the preparation of the draft Service Agreement.

HDR is not a legal firm and does not provide any legal services. The County's legal team will be solely responsible for the Service Agreement. As an advisor to the County, HDR can help facilitate the evaluation of proposals and the negotiation of a new Service Agreement, but cannot guarantee, warrant, or in any other way ensure that such agreements will be reached between the County and Covanta. Because the success and timing of the negotiations are not within HDR's control, the assumptions used by HDR to prepare the not-to-exceed budget, as discussed above, are critical. If any of the assumed hourly limits or time periods are exceeded, then HDR will continue to work on the project and be paid on a time and materials basis, provided the County agrees to an increase in the budget and schedule for this work. If such an agreement is not reached, then HDR will have the right to stop work on the project and HDR will be paid for all of its actual time spent and expenses incurred on the project up to the time HDR stopped working on the project, which amount shall not exceed the not-to-exceed budget.

SCHEDULE

Proposed draft schedule is attached hereto as Appendix B.

REIMBURSEMENT

HDR proposes to complete this work in accordance with the terms and conditions of the Agreement for Professional Consulting Services negotiated between Hennepin County and HDR dated January 14, 2013 (Contract No. A101962).

The work on this project will be performed on a time and material basis; the estimated cost will not be exceeded without prior approval from Hennepin County.

The estimated project costs are as follows.

Task	Total Hours	Estimated Budget		
		Labor	Expenses	Total
Task 100: Completion of Basis of Negotiation and Preparation of Draft Terms	142	\$32,476	\$0	\$32,476
Task 200: Negotiations with Covanta	400	\$94,432	\$12,500	\$106,932
Total	542	\$126,908	\$12,500	\$139,408

Total estimated time by staff position including negotiations with Covanta identified in Task 100 and 200 are as follows:

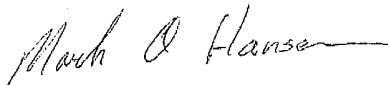
Name	Job Class	Hourly Rate	Estimated # of Hours	Estimated Cost
Mark Hansen	Mechanical Engineer	\$143	94	\$13,442
John Clark	Senior Mechanical Engineer	\$257	70	\$17,990
Shawn Worster	Associate Vice President Senior Professional Associate	\$265	148	\$39,220
Don Castro	Facilities Section Manager	\$267	148	\$39,516
Bruce Howie	Energy from Waste Practice Lead	\$256	14	\$3,584
To Be Determined	Senior Technical	\$256	32	\$8,192
To Be Determined	Technical	\$194	16	\$3,104
To Be Determined	Project Accountant	\$89	10	\$890
To Be Determined	Project Controller	\$97	10	\$970
Subtotal Labor				\$126,908
Expenses (Including Travel Expenses)				\$12,500
Total Cost				\$139,408

HDR will invoice monthly based on work progress. Our estimated costs are based upon our understanding of the scope of work and assumptions listed. Should the scope of work be modified, it may be necessary to review scope changes and our cost estimate. If our understanding is incorrect, we will be glad to correct the scope and modify our estimate.

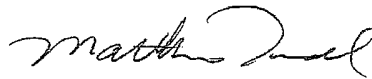
If you have any questions, please contact me at 763.591.5382 or by email at markhansen@hdrinc.com.

Regards,

HDR ENGINEERING, INC.



Mark Hansen, PE
Project Manager / Mechanical Engineer



Matthew B. Tondl, PE
Senior Vice-President, Department Manager





Appendix A

Basis of Negotiation

Basis for Negotiation Outline

- 1) General Provision
 - a) The terms sheet will be prepared by the County to delineate the County's requirements regarding the specific services that it will require during any extension period. The County has a number of issues with the current level of service being provided and is seeking where appropriate modifications to the existing agreement that will bring the operation and maintenance of the Facility up to the standards that the County requires for this showcase Facility.
 - b) The County requires robust enforceable provisions regarding maintenance standards, housekeeping, litter control, and landscape maintenance.
 - c) The County is seeking better definition of operating procedures and performance guarantees and remedies, including uncontrollable circumstances.
 - d) The County is seeking a Contract that will maximize County Revenues while preserving County assets.
 - e) The County is seeking transparency on all of its Contracts and will require:
 - i) Contractor attendance and active participation in monthly O & M meetings.
 - ii) Scheduled maintenance activities and results for each scheduled outage.
 - iii) Condition reports and OEM vendor recommendations for inspections.
 - iv) Greater clarity regarding uses of funds by moving to a more open book approach.
- 2) Term
 - a) The County is seeking a revised agreement that will preferably begin on January 1, 2015 and end on March 2, 2025.
 - b) Renewal Term - Is there any potential for additional renewals??
- 3) Waste Delivery and Capacity Obligations
 - a) County Delivery Obligations
 - b) Supplemental Waste??
 - c) Unacceptable Waste
 - d) Ash/Bypass Waste
- 4) Management Fee Structure
 - a) Operating Fee
 - i) Payment Structure
 - (1) \$ per month
 - (2) Per Ton (excess)
 - b) Pass-through Costs
 - i) Reagents
 - ii) Environmental
 - iii) other
 - c) Escalation Provisions
 - d) Utility Caps
 - e) Contractor Credits from Electricity and Metal Revenues
 - i) Base Price

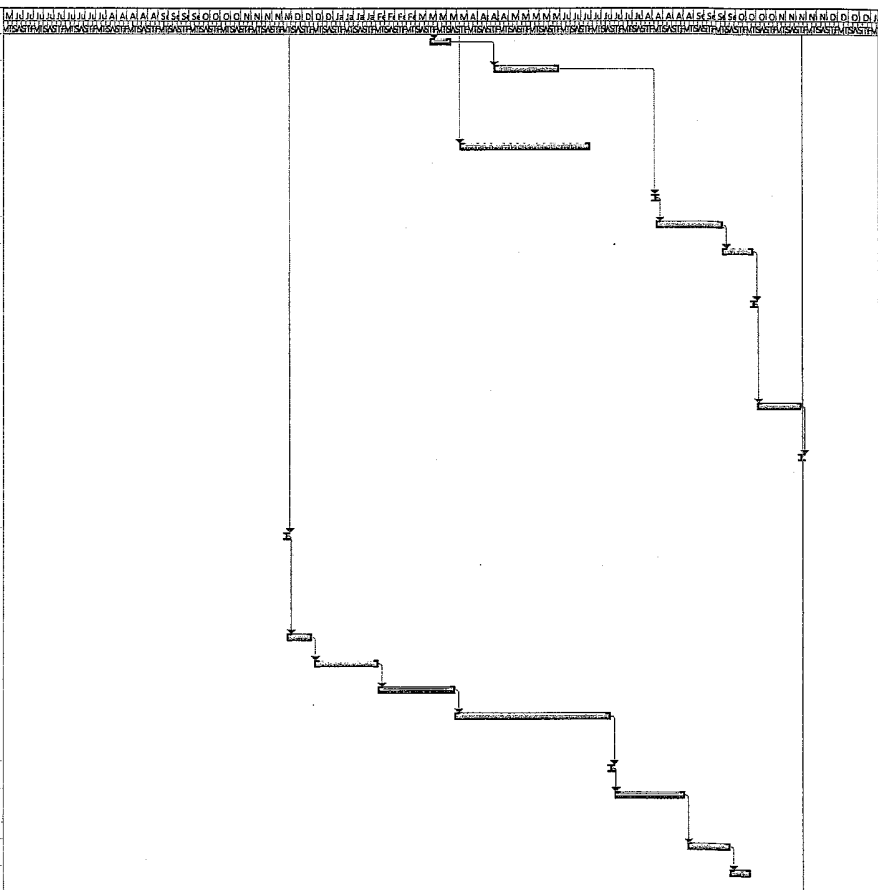


- ii) Ferrous and Non-ferrous revenues
- iii) Environmental Attributes
- 5) Operation and Maintenance
 - a) Performance Guarantees
 - i) Environmental
 - ii) Net Electricity
 - iii) Steam
 - iv) Minimum Throughput
 - v) Bypass
 - vi) Residue quality and quantity
 - vii) Materials Recovery
 - viii) Truck Turn Time
 - ix) Noise/odor
 - b) Maintenance Obligations
 - i. Covanta will be responsible for all routine, preventive and corrective maintenance
 - ii. Covanta will be responsible for meeting all General Housekeeping/Operational standards consistent with the Facility's location and neighbors
 - iii. The County and Covanta will establish the list of capital repairs related to life extension at the Facility. Covanta will be obligated to make the required repairs/replacements within the established budget agreed to by the County and to meet relevant performance requirements where applicable and once installed, Covanta will be required to maintain all such equipment in accordance with good engineering practice at no additional charge to the County. The County will retain its right to complete punch list items and deduct those costs from the monthly service fee. The County may also consider an alternative approach the County may consider to the current methodology in place for dealing with capital repairs/replacements is to consider Providing a single fund for Refurbishment projects to be used at the Contractor's discretion to bring the Facility to a higher standard and to achieve certain enforceable performance guarantees, and subsequently back to an O&M Service Fee with damages and without Refurbishment provisions.
 - iv. County rights regarding inspections and reports
 - c) Handback Obligations
 - The revised agreement will include specific program and performance obligations regarding Facility condition at handback (i.e. 2025) including requirements to demonstrate ability to meet performance standards. It will also address spare parts, licenses and as-builts.
- 6) Uncontrollable Circumstance Risk Sharing
- 7) Security of Performance
 - a) Insurance
 - b) Performance Bonds
 - c) Letters of Credit
 - d) Parent Guarantee
- 8) Limits of Liability
 - a) Will be a subject of discussion
- 9) Indemnities
- 10) Termination Rights and Obligations
 - a) Convenience Termination

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	
1	Task	Notice received from Covanta re post 2018 Ops	1 day?	Sun 3/2/14	Sun 3/2/14		
2	Task	Commence Negotiations	66 days	Mon 3/3/14	Sat 5/31/14	1	
3	Task	First Negotiation Meeting	1 day	Mon 6/9/14	Mon 6/9/14		
4	Task	Complete Terms Sheet	15 days	Tue 6/10/14	Mon 6/30/14	3	
5	Task	Submit Terms sheets	1 day?	Tue 7/1/14	Tue 7/1/14	4	
6	Task	Review Terms Sheet	15 days	Wed 7/2/14	Tue 7/22/14	5	
7	Task	Meeting to Discuss Terms Sheet	1 day?	Mon 7/28/14	Mon 7/28/14	6FS+3 days	
8	Task	revise terms sheet	11 days	Tue 7/29/14	Tue 8/12/14	7	
9	Task	Submit Revised Terms Sheet	1 day?	Wed 8/13/14	Wed 8/13/14	8	
10	Task	review revised terms sheet	6 days	Thu 8/14/14	Thu 8/21/14	9	
11	Task	Meeting to Finalize Terms Sheet	1 day?	Mon 8/25/14	Mon 8/25/14	10FS+1 day	
12	Task	Draft Revised Agreement	22 days	Tue 8/26/14	Wed 9/24/14	11	
13	Task	Review Revised Agreement	15 days	Thu 9/25/14	Wed 10/15/14	12	
14	Task	Meeting to Resolve Any Contract Issues	1 day?	Thu 10/16/14	Thu 10/16/14	13	
15	Task	Finalize Agreement	10 days	Fri 10/17/14	Thu 10/30/14	14	
16	Task	Complete Negotiations	131 days	Mon 6/2/14	Mon 12/1/14	2	
17	Task	IF PARTIES FAIL TO AGREE	1 day?	Tue 12/2/14	Tue 12/2/14	16	
18	Task	County Elects to Proceed Pursuant to Section 12. D, Solicit Alternative Proposals	1 day?	Wed 12/3/14	Wed 12/3/14	18	
19	Task	Prepare RFP	69 days	Thu 12/4/14	Tue 3/10/15	19	

Project: HERC NEGOTIATIONS PRE	Task	Summary	External Milestone	Inactive Summary	Manual Summary Rollup	Finish-only
Date: Fri 5/30/14	Split	Project Summary	Inactive Task	Manual Task	Manual Summary	Deadline
	Milestone	External Tasks	Inactive Milestone	Duration-only	Start-only	Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
21	+	Issue RFP	10 days	Wed 3/11/15	Tue 3/24/15	20FS+1 day
22	+	Conduct Facility Due Diligence Visits w Proposers	32 days	Thu 4/23/15	Fri 6/5/15	21FS+21 days
23	+	Respond to Requests for Information	64 days	Tue 3/31/15	Fri 6/26/15	20FS+14 days
24	+	Receive Proposals	1 day?	Mon 8/10/15	Mon 8/10/15	22FS+45 days
25	+	Evaluate Proposals	33 days	Tue 8/11/15	Thu 9/24/15	24
26	+	Select Preferred Operator	15 days	Fri 9/25/15	Thu 10/15/15	25
27	+	Submit Preferred Proponent Agreement to Covanta pursuant to Section 12.D	1 day	Fri 10/16/15	Fri 10/16/15	26
28	+	Covanta can agree to terms of operation	22 days	Mon 10/19/15	Tue 11/17/15	27
29	+	Operation under new contract begins	1 day?	Wed 11/18/15	Wed 11/18/15	28
30	+	Option 2				
31	+	If County Decides to not exercise 12.D, then Binding Arbitration per Section 12.C	1 day?	Wed 12/3/14	Wed 12/3/14	18
32	+	Filing and Initiation	12 days	Thu 12/4/14	Fri 12/19/14	31
33	+	Arbitrator Selection	31 days	Mon 12/22/14	Mon 2/2/15	32
34	+	Preliminary Hearing	38 days	Tue 2/3/15	Thu 3/26/15	33
35	+	Information Exchange and Preparation	75 days	Fri 3/27/15	Thu 7/9/15	34
36	+	Hearing	1 day?	Fri 7/10/15	Fri 7/10/15	35
37	+	Post-hearing submissions	35 days	Mon 7/13/15	Fri 8/28/15	36
38	+	Award	22 days	Mon 8/31/15	Tue 9/29/15	37
39	+	Covanta accepts	10 days	Wed 9/30/15	Tue 10/13/15	38



Project: HERC NEGOTIATIONS PRE
Date: Fri 5/30/14

Task	Summary	External Milestone	Inactive Summary	Manual Summary Rollup	Finish-only
Split	Project Summary	Inactive Task	Manual Task	Manual Summary	Deadline
Milestone	External Tasks	Inactive Milestone	Duration-only	Start-only	Progress

