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MEMORANDUM ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

TO: Lonzo Lester, County Administrator
Katie Patton, County Attorney
David Paylor
Mark Kiser

FROM: Jeffrey C. Southard
Gregory J. Haley

DATE: July 20, 2023

SUBJECT: Russell County/Landfill Project/Work Plan

A. People

1. Russell County. Lonzo Lester and Katie Patton.
2. Potesta Engineering. David Paylor; Mark Kiser.
3. Nova. John Matney. Clyde Stacy. Benny Wampler. Terry Kilgore (attorney).

B. Scope of Gentry Locke Engagement/Timing.

1. How much work does the County want Gentry Locke to do at this time?
2. Is this project for real? Is Nova committed to this project?
 - a. This project will require substantial management and financial resources by Nova.
3. Will the County/Board of Supervisors want to go forward?
 - a. This project can be expected to generate public interest, and opposition.
4. Consider possible transition issues from regional waste authority.

C. Resources.

1. David Paylor will contact Waste Management and request copies of good host agreements.

D. Step by Step.

1. Coordinate, clarify and plan with County.
2. Draft “Project Description” for County and Nova. Clarify potential scope of project, responsibilities and commitments.
3. Plan for the public information process.
4. Draft a Host Agreement and negotiate with Nova.

E. Possible Financial Provisions/Host Agreement.

1. Host fee. Escalation based on volume. Inflation index escalator.
2. Will Nova handle County solid waste? Will there be a cost to the County?
3. Nova to pay cost of County Host Agreement/contract work; Environmental and engineering review; Ongoing operations and monitoring.
4. Financial assurance. How can the County ensure that Nova has adequate financial resources? Corporate and individual affiliate guarantees? Bonding requirements?
5. Insurance. Adequate general liability and environmental insurance.
6. Closure fund.
7. Risk management. Indemnification of County for third party claims and other enforcement expenses.

F. Design, Permitting and Construction.

1. County review and approval of design documents.
2. County review and notice of permit documents.
3. County inspection of construction activities.
4. Agencies;
 - a. DEQ (landfill).
 - b. EPA (landfill).
 - c. DMME (coal facility).
 - d. MSHA (coal facility).
 - e. VPDS and VPS (discharge permits).

- f. VDOT (roads).
 - g. VMRC (wetlands, if any).
 - h. Rail?
- 5. Liner design. Cell design.
 - 6. Compacted material beneath liner.
 - 7. Leachate management and holding capacity.
 - 8. Site specific design factors:
 - a. Evaluate dams and impoundment structures at higher elevations.
 - b. Evaluate stability of site. On-site impoundment structures. Operating footprint stability.
 - c. Evaluation of underground mining in the area. Underground mine shafts in the area.
 - d. Evaluation of possible subsidence issues.
 - e. Access evaluation.
 - 1. Rail.
 - 2. Roads.

G. Operations/Equipment and Facilities.

- 1. Access facilities.
- 2. Access routes.
- 3. Security. Gates. Fencing.
- 4. Traffic control facilities.
- 5. Equipment. Trucks. Compactors. Heavy equipment. Earth movers.
- 6. Support facilities. Garages. Parking. Holding areas.

H. Operations/General

- 1. Route control.
- 2. Gate operations.

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3. Rail operations.
4. Truck size limits.
5. Number of trucks limit.
6. Access control.
7. Sources and types of waste.
 - a. Household only.
 - b. No hazardous waste.
 - c. No industrial waste.
 - d. Geographical source regulation?
8. Licenses and qualification of managers.
9. County access. Inspection. Monitoring.
10. Hours of operation.
11. Complaint procedures.
12. Insurance requirements.
13. Record keeping.
14. Notices.

I. Operations/Environmental Protection.

1. Daily cover.
2. Leak detection.
3. Groundwater monitoring.
4. Remediation plan.
5. Sampling and testing.
6. Reporting.
7. Limitation on sources and types of waste.
 - a. Household only.

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- b. No hazardous waste.
- c. No industrial waste.
- 8. Leachate management.
- 9. Leachate holding.
- 10. Odor control.
- 11. Methane control.
- 12. Pest control.
- 13. Noise control.
- 14. Daily volume limit.
- 15. Hours of operation

J. Operations/Risk Management

- 1. Insurance, bonding
- 2. Indemnification.
- 3. Prohibition against assignment without County consent.
- 4. Closure fund.

K. Additional Practical Issues

- 1. Public information process. Va. Code § 10.1-1408.1.
- 2. Statement of County principles/priorities.
 - a. Protect environment.
 - b. Manage and mitigate possible adverse effects on area properties.
 - c. Financial benefit to County.
 - d. Benefit to County and citizens.
 - e. Effective monitoring and inspection.
 - f. Protect County and citizens.
 - g. The County intends to have requirements beyond what DEQ would require.