

SOLICITATION, OFFER, AND AWARD			1. Caption:			Page of Pages	
			Materials Recovery Facility (MRF)			1	68
2. Contract Number		3. Solicitation Number		4. Type of Solicitation		5. Date Issued	
		DCKT-2009-B-0042		<input checked="" type="checkbox"/> Sealed Bid (IFB) <input type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Sole Source <input type="checkbox"/> Human Care Agreements <input type="checkbox"/> Emergency		<input checked="" type="checkbox"/> Open <input type="checkbox"/> Set Aside <input type="checkbox"/> Open with Sub-Contracting Set Aside	
7. Issued By:				8. Address Offer to:			
Office of Contracting and Procurement Transportation and Specialty Equipment Commodity Group 2000 14th Street, NW 6th Floor Washington, DC 20009				Office of Contracting and Procurement Bid Room (Reeves Center) 2000 14th Street, NW 3rd Floor Washington, DC 20009			
<small>NOTE: In sealed bid solicitations "offer" and offeror" means "bid" and "bidder"</small>							
9. Sealed offers in original and <u>2</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried to the bid counter located at <u>Bid Room, Reeves Center</u> until <u>2:00 P.M.</u> local time <u>23-Jan-09</u> (Hour) (Date)							
<small>CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in this solicitation.</small>							
10. For Information Contact		A. Name		B. Telephone			C. E-mail Address
		Calvin L. McFadden		(Area Code) 202	(Number) 671-0484	(Ext)	calvin.mcfadden@dc.gov
11. Table of Contents							
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OFFER							
12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u>90</u> calendar days from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.							
13. Discount for Prompt Payment		10 Calendar days %		20 Calendar days %		30 Calendar days %	
						___ Calendar days %	
14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):				Amendment Number		Date	
15A. Name and Address of Offeror				16. Name and Title of Person Authorized to Sign Offer/Contract			
15B. Telephone			15 C. Check if remittance address is different from above - Refer to Section G		17. Signature		18. Offer Date
(Area Code)	(Number)	(Ext)					
AWARD (TO BE COMPLETED BY GOVERNMENT)							

SECTION B – SUPPLIES OR SERVICE AND PRICE/COST

GENERAL: (Materials Recovery Facility (MRF))

The District of Columbia, Office of Contracting and Procurement, on behalf of the Department of Public Works (“the District”) is seeking a Contractor to provide a Materials Recovery Facility (MRF) and to transport, process and market Recyclables from the District’s residential recycling collection program along with materials from drop off facilities located at the District’s Fort Totten transfer station (4900 Bates Road, NE) and the Benning Road transfer station (3200 Benning Road, NE).

For the duration of the contract, all Rigid Containers, and Paper Products collected in a single stream from the District’s curbside recycling routes will be delivered to the District’s Fort Totten and Benning Road transfer stations. The District will load the recyclables into the Contractor’s trailers. The Contractor will transport, receive, process and market the recyclables.

The District will purchase its requirements of the articles or services included herein from the Contractor. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. They shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

Delivery or performance shall be made only as authorized in accordance with the Ordering Clause, G.10. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. If the District urgently requires delivery before the earliest date that delivery may be specified under this contract, and if the Contractor shall not accept an order providing for the accelerated delivery, the District may acquire the urgently required goods or services from another source.

There is no limit on the number of orders that may be issued. Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period.

**SCHEDULE-BASE PERIOD (5 YEARS)
AGGREGATE AWARD GROUP CLINS 0001 – 0002**

Contract Line Item No. (CLIN)	Item Description	Price Per Ton	Estimated Quantity Tons	Estimated Total Price
0001	Recycling transport fee to transport recyclables in a single stream from the Fort Totten and Benning Road transfer stations to the MRF.	\$ _____		\$ _____
0002	Processing fee to receive, process and market recyclables delivered in a Single Stream of mixed Rigid Containers and Paper Products from the District's residential recycling collection program.	\$ _____	25,000	\$ _____

TOTAL PRICE \$ _____

SECTION C: DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE:

- C.1.1 The contractor shall provide a Materials Recovery Facility (MRF) or facility equipped with all of the requisite equipment, labor, personnel, management, tools, etc. required to receive, market and process on a weekly basis, approximately 375 tons of paper products and 200 tons of Rigid Containers collected from the District's residential Recycling Programs.
- C.1.2 The Contractor shall transport the recyclables to the MRF from the Fort Totten and Benning Road transfer stations. The District will provide loading and weighing of the Contractor's transfer trailers.
- C.1.3 The Contractor shall transport, receive, process, and market all Recyclables at the Applicable Recycling transfer fee and Quarterly Adjusted Processing Price unless the material fails to meet the quality criteria as detailed in Section C.5 in which case the penalty fees specified in Section C.5 may be levied.
- C.1.4 Applicable Documents: D.C. Official Code Sections 8-1011(a), Contracts for Recycling Services and 8-1008 DPW Authority for Recycling Program; and 21 DCMR Chapter 7 Contracting Solid Waste.
- C.1.5 The Contractor shall have a Safety Plan providing a description of safety procedures to be implemented at the MRF for District review and approval within 30 days after contract award. The plan shall include the identification, handling and disposal of Hazardous Waste at the Facility (the "Hazardous Waste Plan").

C.2 DEFINITIONS: (The following are definitions used in these specifications)

- C.2.1 **Alternate Processing and Marketing Liquidated Damages** - The cost to the District of providing for processing and marketing of Recyclables for the period or periods during which the Contractor has not made the Facility available or otherwise failed to accept materials according to the terms of the contract, as well as the cost of transportation of the Recyclables to an Alternate Facility and inclusive of administrative costs.
- C.2.2 **Alternate Facility** - A facility to which the District and/or its Designated Haulers deliver Recyclables due to the failure of the Contractor to accept them as required by the terms of the contract.
- C.2.3 **Applicable Law** - Any law, regulation, requirement or order of any Federal or local agency, court or other governmental body, and all permits, licenses and governmental approvals applicable to the acquisition, design, construction, equipping, testing, financing, ownership, possession or operation of Facilities used to provide the Service, and applicable to the performance of any of the obligations under this

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contract.

- C.2.4 **Contamination** - Solid waste which is included in the delivered loads of Recyclables that is not included in the definition of Recyclables.
- C.2.5 **District** - District of Columbia Government.
- C.2.6 **Materials Recovery Facility (MRF)** - The facility that the Contractor makes available to the District for the processing of Recyclables pursuant to this contract.
- C.2.7 **Facility** - Any component of the Contractor's system which accepts, processes, or markets Recyclables and disposes of any residue or byproduct of processing Recyclables.
- C.2.8 **Holiday or Holidays** - New Year's Day, Inauguration Day, Martin Luther King Day, President's Day, Emancipation Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.
- C.2.9 **Marketing** - The sale of Recyclables to a recyclable materials buyer, broker, or end user.
- C.2.10 **Maximum Contamination Level** - 10 percent of the gross weight of incoming loads of Recyclables.
- C.2.11 **Person** - Any individual, corporation, partnership, joint venture, association, joint-stock company or unincorporated organization, or any government unit or agency or political subdivision not otherwise expressly named in this contract.
- C.2.12 **Processing** - The preparation necessary to render Recyclables acceptable to markets and/or designated buyers and may include, but not be limited to, sorting, cleaning, shredding, baling, crushing and dandifying.
- C.2.13 **Paper Products** – Shall mean all of the following:
- C.2.13.1 newspaper (including all inserts);
 - C.2.13.2 magazines and catalogs;
 - C.2.13.3 cardboard and paperboard boxes;
 - C.2.13.4 corrugated boxes broken down and flattened;
 - C.2.13.5 Junk mail;
 - C.2.13.6 office papers (including typing, fax, copy, letterhead, NCR) and envelopes;

- C.2.13.7 brown paper bags and non-metallic wrapping paper; and
- C.2.13.8 Books (including paperbacks, textbooks and hardbacks) and telephone books.
- C.2.13.9 Aseptic/gable-top milk and juice cartons
- C.2.14 **Processing Price** - A price proposed, including subsequent adjustments in accordance with the specifications, to provide the services described in the specifications.
- C.2.15 **Receiving Hours** - 7:00 a.m. until 6:00 p.m. Monday through Friday, except for Holidays, and Saturday 7:00 a.m. until 4:00 p.m during weeks with Holidays.
- C.2.16 **Recyclables** – Shall mean the following:
 - C.2.16.1 Paper Products;
 - C.2.16.2 Rigid Containers and;
 - C.2.16.3 Other materials as mutually agreed to by the District and the Contractor.
- C.2.17 **Rigid Containers** – Shall mean the following:
 - C.2.17.1 Glass containers such as jars and bottles;
 - C.2.17.2 Ferrous and bimetal food and beverage containers;
 - C.2.17.3 Aluminum food and beverage cans;
 - C.2.17.4 Narrow-necked plastic containers (other than for motor oil) carrying plastic resin identification codes 1)through 7;
 - C.2.17.4 Aerosol cans;
 - C.2.17.5 Aluminum foil and aluminum pie pans;
 - C.2.17.6 Wide-mouth containers such as peanut butter, margarine/butter tubs, yogurt, mayonnaise, whipped topping, and prescription bottles;
 - C.2.17.7 Plastic bags and plastic film bundled within one bag;
 - C.2.17.8 Rigid plastics which include milk/soda crates, buckets with metal handles, laundry baskets, lawn furniture, totes, drums, coolers, flower pots, 5-gallon water bottles, pallets, toys, and empty garbage/recycling bins.

C.2.17.5 Other rigid packaging materials as mutually agreed to by District and Contractor

C.2.18 **Single Stream** - The collection of all Recyclables from municipal solid waste (MSW) in a single compartment in a collection truck. The single stream of materials are separated at the MRF prior to being sold at market.

C.2.19 **Ton** - 2,000 pounds.

C.2.20 **Wrongfully Disposed Material** - Materials disposed of by the Contractor without proper authorization by the District.

C.2.21 **Wrongfully Diverted Material** - Materials including Recyclables rejected or not accepted by the Contractor without proper authorization by the District.

C.3 QUALITY:

C.3.1 The materials to be received, transferred, processed and marketed are as enumerated in Section C.1

C.3.2 The COTR shall oversee the quality of materials collected to keep them within the range of acceptable Contamination, (See Section C.3.3) The District does not guarantee that the recyclables will be free of Contamination.

C.3.3 **Percent Contamination:** At a minimum, the Contractor must agree to accept a Maximum Contamination Level of 10% for Rigid Containers and 10% for Paper Products at the prices proposed by the Contractor. The Contractor may charge a penalty for higher levels of Contamination as provided below. In the period of 1998 through 2003, loads collected rarely exceeded the Maximum Contamination Level.

C.3.3.1 With prior approval of the COTR, the Contractor may levy a \$10/ton penalty fee for processing recyclables with contaminant levels exceeding 10%. These penalties shall be added to the subsequent invoice to the District with accompanying weight tickets and documentation.

C.3.4 Equipment provided at the MRF shall include District or state certified scales for the weighing of Recyclables delivered to the site for processing and marketing. Scales shall be regularly calibrated to ensure the accurate measurement of the weights of Recyclables delivered. Weighing procedures shall be utilized which insure that all Recyclables are properly accounted for with regard to quantities transported to, transported from, and stored at the MRF. The Contractor shall utilize computer hardware and software that interfaces directly with the scales.

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SECTION D : PACKAGING AND MARKING

N/A

SECTION E: INSPECTION AND ACCEPTANCE

- E.1 The inspection and acceptance requirements for the resultant contract will be governed by the Inspection of Services Clause in Section 5 of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007.
- E.2 The District reserves the right to inspect all work in progress and to send representatives to witness the contractor in the performance of the required services.
- E.3 Periodically throughout the contract term, the COTR shall have access to the contractor's facility and equipment to ensure that the contractor meets the terms of this contract.
- E.4 The COTR may visit or inspect the Facilities without prior notice at any time during normal hours of operations during the term of this contract. The COTR shall conduct visits to the Facilities in a manner that does not cause unreasonable interference with the Contractor's operations.

SECTION F: DELIVERIES OR PERFORMANCE

F.1 CONTRACT TYPE

This is a requirements type contract with payment based on a fixed unit price and subject to a quarterly economic price adjustment as enumerated in Section C. The contractor shall provide all services in accordance with the terms and conditions of the contract.

F.2 TERM OF CONTRACT

The term of the contract shall be for a period of five (5) years from date of award specified on page one (1) of the contract.

F.3 DELIVERY:

Time of delivery is of the essence and shall be made a factor in making an award herein. The contractor shall be fully prepared to commence recycling services upon contract award.

F.4 DELIVERABLES:

F.4.1 Any reports that are required pursuant to H.3.3 of the 51% District Residents New Hires Requirements and First Source Employment Agreement, are to be submitted to the District as a deliverable. If the report is not submitted as part of the deliverables, final payment of the Contractor will not be paid.

F.4.2 The contractor shall generate and submit monthly performance reports to the COTR. The report content and format shall be approved by the COTR prior to commencement of this contract. Monthly performance reports shall be due by the tenth (10th) working day of each month. The contractor shall be subject to a \$1,000.00 charge per month for not sending all the minimum information.

F.5 AGGREGATE AWARDS:

Award if made, will be to a single bidder in the aggregate for those groups of items indicated by an Aggregate Award Group herein. Bidder must quote unit prices on each item within each group to receive consideration. In the event that the District is unable to make an aggregate award, the District may award on an individual award basis each item within an aggregate award group.

SECTION G: CONTRACT ADMINISTRATION DATA

G.1 Invoice Payment

- G.1.1** The District will make payments to the Contractor, upon the submission of proper invoices or vouchers, at the prices stipulated in this contract, for services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.1.2** The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 Invoice Submittal

- G.2.1** The Contractor shall submit proper invoices on a monthly basis for each calendar month based on data from the contractor's scales. The invoice shall be submitted by the 10th day of the month to which the invoice applies. Invoices shall be prepared in duplicate and submitted to the Agency Chief Financial Officer (CFO) with concurrent copies to the COTR specified in Section G.9 below. The address of the CFO is:

Name: Chief Financial Officer (CFO)
Address: Customer Care Division
2000 – 14th Street, NW, 6th Floor
Washington, DC 20009
Telephone: (202) 671-2300

- G.2.2** To constitute a proper invoice, the Contractor shall submit the following information:
 - G.2.2.1** Contractor's name and invoice date (Contractors are encouraged to date invoices as close to the date of mailing or transmittal as possible.);
 - G.2.2.2** Contract number and encumbrance number (assignment of an invoice number by the contractor is also recommended);
 - G.2.2.3** Description, price, quantity and the date(s) that the supplies/services were actually delivered and/or performed.
 - G.2.2.4** Other supporting documentation or information, as required by the contracting officer;
 - G.2.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

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G.2.2.6 Name, title, phone number of person preparing the invoice;

G.2.2.7 Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above to be notified in the event of a defective invoice); and

G.2.2.8 Authorized signature

G.2.3 The following supporting information shall be supplied with each invoice:

G.2.3.1 Processing Price - The total tonnage of recyclables received from the District,. A monthly summary (starting on the 1st day of the month and ending on the last day of the month) of all account activity shall be submitted with the invoice. The monthly summary shall, for each day of the month, identify the tonnage received of each material type (Paper Products

and

Rigid Containers) and the source of each material category.

G.2.3.2 Signed weight tickets for each scale transaction. All weight tickets must be legibly signed by the Contractor's designated hauler's authorized driver or by a District employee to be considered valid for invoicing. Electronic transactions based on radio frequency tags will be acceptable. Any ticket reprint or duplicate must include written explanation as to why a reprint or duplicate was necessary.

G.2.3.3 Prior to the time of invoice submittal, the Contractor shall forward scale data covering the invoice period in electronic format as specified in Sections H.9.10 and H.9.11.

G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT:

G.3.1 For contracts subject to the 51% District Residents New Hires Requirement and First Source Employment Agreement, final request for payment must be accompanied by the report or waiver of compliance discussed in Section H.3.5.

G.3.2 No final payment shall be made to the Contractor until the CFO has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement.

G.4 PAYMENT ON PARTIAL DELIVERIES OF GOODS

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods accepted by the District if:

- a) The amount due on the deliveries warrant it; or
- b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

- G.5.1 In accordance with 27 DCMR 3250, the Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.
- G.5.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.
- G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

Pursuant to the instrument of assignment dated _____,
make payment of this invoice to _____
(Name and address of assignee).

G.6 THE QUICK PAYMENT CLAUSE

G.6.1 Interest Penalties to Contractors

G.6.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

G.6.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.6.2 Payments to Subcontractors

G.6.2.1 The Contractor must take one of the following actions within 7 days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under a contract:

- a) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or
- b) Notify the District and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.6.2.2 The Contractor must pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

G.6.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.6.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

G.7 CONTRACTING OFFICER (CO)

Contracts may be entered into and signed on behalf of the District only by contracting officers. The name, address and telephone number of the Contracting Officer is:

James Roberts
Office of Contracting and Procurement
Transportation and Specialty Equipment Group
2000 14th Street, NW
Washington, DC 20009
(202) 671-2200

G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.8.1 The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract.

G.8.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.

G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.9 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

G.9.1 The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's compliance or noncompliance with the contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. The COTR for this contract is:

William Easley
Department of Public Works
Office of Recycling
3220 Pennsylvania Avenue, Se
Washington, DC 20020
Telephone: (202) 645-8513

G.9.2 The COTR shall not have authority to make any changes in the specifications or scope of work or terms and conditions of the contract.

G.9.3 The Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no

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additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.10 ORDERING CLAUSE

- a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the Contracting Officer. Such orders may be issued during the term of the contract.
- b) All delivery orders or task orders are subject to the term and conditions of this contract. In the event of a conflict between a delivery order or task order and this contract, the contract shall control.
- c) If mailed, a delivery order or task order is considered “issued” when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.2 FREEDOM OF INFORMATION ACT

The District of Columbia Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection G.9 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the reliability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

H.3 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

H.3.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, sec. 2-219.01 et seq. (“First Source Act”).

H.3.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement in which the Contractor shall agree that:

- (1) The first source for finding employees to fill all jobs created in order to perform this contract shall be the Department of Employment Services (“DOES”); and

- (2) The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

H.3.3 The Contractor shall submit to DOES, no later than the 10th each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

- (1) Number of employees needed;
- (2) Number of current employees transferred;
- (1) Number of new job openings created;
- (2) Number of job openings listed with DOES;
- (3) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- (4) Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:
 - (a) Name;
 - (b) Social Security number;
 - (c) Job title;
 - (d) Hire date;
 - (e) Residence; and
 - (f) Referral source for all new hires.

H.3.4 If the contract amount is equal to or greater than \$100,000, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.3.5 With the submission of the Contractor’s final request for payment from the District, the Contractor shall:

- (1) Document in a report to the Contracting Officer its compliance with the section H.3.4 of this clause; or
- (2) Submit a request to the Contracting Officer for a waiver of compliance with section H.3.4 and include the following documentation:
 - (a) Material supporting a good faith effort to comply;
 - (b) Referrals provided by DOES and other referral sources;
 - (c) Advertisement of job openings listed with DOES and other referral sources; and
 - (d) Any documentation supporting the waiver request pursuant to section H.3.6.

H.3.6 The Contracting Officer may waive the provisions of section H.3.4 if the

Contracting Officer finds that:

- (1) A good faith effort to comply is demonstrated by the Contractor;
- (2) The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area which includes the District of Columbia; the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
- (3) The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- (4) DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.3.7 Upon receipt of the contractor's final payment request and related documentation Pursuant to sections H.3.5 and H.3.6, the Contracting Officer shall determine whether the Contractor is in compliance with section H.3.4 or whether a waiver of compliance pursuant to section H.3.6 is justified. If the Contracting Officer determines that the Contractor is in compliance, or that a waiver of compliance is justified, the Contracting Officer shall, within two business days of making the determination forward a copy of the determination to the Agency Chief Financial Officer and the COTR.

H.3.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.3.5, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in the contract any decision of the Contracting Officer pursuant to this section H.3.8.

H.3.9 The provisions of sections H.3.4 through H.3.8 do not apply to nonprofit organizations.

H.4 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

- H.4.1** For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:
- H.4.2** At least fifty-one (51) percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.
- H.4.3** The Contractor shall negotiate an Employment Agreement with the DOES for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified applicants, trainees, and other workers in the implementation of employment goals contained in this clause.

H.5 PROTECTION OF PROPERTY:

The Contractor shall be responsible for any damage to the building, interior, or their approaches in delivering equipment covered by this contract.

H.6 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. 12101 et seq.

H.7 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. See 29 U.S.C. 794 (1983) et seq.

H.8 GOVERNMENT RESPONSIBILITIES:

- H.8.1** The District shall be responsible for the operation and maintenance of the Fort Totten and Benning Road transfer stations and the loading of recyclables into the Contractor's trailers. Both transfer stations have three trailer positions capable of simultaneous loading. Load out positions are equipped with scales which provide transfer vehicle tare and gross weights as well as axle weights for tractor front and rear axles and trailer axles.
- H.8.2** The operating hours of the transfer stations are 7:00 a.m. until 6:00

p.m. Monday through Friday, except for Holidays, and Saturday 7:00 a.m. until 4:00 p.m. during weeks with Holidays.

H.8.3 The District's solid waste collection crews do not work on a government holiday. The crews work the Saturday after a government holiday to

ensure service to all eligible residents. The applicable holidays are New Year's Day, Martin Luther King Jr. Birthday, President's Day, Emancipation Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and Inauguration Day.

H.8.4 The Fort Totten and Benning Road transfer stations will be closed on New Year's Day, Thanksgiving Day, and Christmas Day. At least one station will be open with modified hours on Memorial Day, Independence Day and Labor Day. On all other government holidays, at least one station shall operate on a weekday schedule.

H.8.5 The District will have an employee or agent in the scale house at any time to observe scale operations, review weighing procedures, or conduct other related District business.

H.8.6 The District reserves the right to have all hazardous waste transported and disposed of by its own contractor at the District's discretion.

H.9 CONTRACTOR RESPONSIBILITIES:

H.9.1 The Contractor shall receive, process and market Paper Products and Rigid Containers in a single stream from residential and government recycling activities.

H.9.2 The Contractor shall provide the sufficient trailers and personnel to allow for the timely and orderly loading of recyclables from the Fort Totten and Benning Road transfer stations.

H.9.2.1 All transfer vehicles shall be covered to eliminate spillage of recyclables and blowing of debris from the vehicles.

H.9.2.2 The Contractor shall be responsible for compliance with all vehicle and driver licensing requirements and vehicle weight restrictions of all relevant jurisdictions.

H.9.2.3 Access to the transfer stations:

- H.9.2.3.1** The contractor's transfer trailer vehicles shall enter and exit the Fort Totten transfer station only by way of North Capitol Street, Harewood Road, Fort Drive, Taylor Street, John McCormack Drive and Bates Road without prior written approval of the COTR.
- H.9.2.3.2** The contractor's transfer trailer vehicles shall enter and exit the Benning Road transfer station only by way of Kenilworth Avenue (DC 295) and Benning Road without prior written approval of the COTR
- H.9.2.3.3** The contractor may be required to demonstrate, to the satisfaction of the District, that they have or can acquire the necessary facilities, ability, and financial resources to perform the work in a satisfactory manner.
- H.9.3** Recyclables rejected by the Contractor for any reason other than as permitted pursuant to any provision of these specifications constitutes Wrongfully Diverted Material. All Wrongfully Diverted Material shall be deemed to be acceptable material unless the District and the Contractor mutually agree that a portion of such Wrongfully Diverted Material is unacceptable material. The amount of Wrongfully Diverted Material, as adjusted above, shall be used to determine Alternate Processing and Marketing Liquidated Damages.
- H.9.4** The Contractor shall make known to the District problems with the quality of recyclables received by the Contractor. The District reserves the right for the District to correct any justified complaints without penalty prior to processing of the Recyclables by the contractor.
- H.9.5** The Contractor shall notify the COTR immediately upon receiving a load which exceeds the 10% Maximum Contamination Level prior to processing. At a minimum, the Contractor shall indicate the arrival time, vehicle identification, and other pertinent information regarding the contamination identified.
- H.9.6** The Contractor shall provide a privately owned or leased site and Facility which shall be operated by the Contractor for the acceptance and processing of the Recyclables received from the District. The Contractor shall supply all facilities, equipment, labor and other resources at the Materials Recovery Facility necessary for the proper unloading, storage, transfer, processing and marketing of the delivered Recyclables.
- H.9.7** The Contractor's personnel shall have prior experience, technical expertise, and qualifications to reliably operate the Facilities and comply with all requirements

of the specifications. The site(s), if located in the District of Columbia, must meet all requirements of District zoning regulations. If the site(s) is to be leased, the Contractor shall submit a copy of the lease, or option to lease, for the subject property for the full term of the contract with the Bid. If the site(s) is to be purchased, the Contractor must submit an executed sales contract or option to buy with the Bid.

H.9.7.1 The Facilities shall be of such type, size and layout, and shall utilize appropriate operating methods, so as to be able to accept and process the projected tonnages of recyclables to be delivered by the District in compliance with all requirements of the specifications. The District reserves the right to inspect the proposed MRF prior to selection of the qualified Contractor and shall consider the results of this inspection in assessing the bidder's qualifications.

H.9.8 The Contractor shall be responsible for maintaining the neat orderly appearance of the MRF. The Contractor shall keep the MRF free from accumulation of waste and rubbish (except in appropriate locations) caused by operations at the MRF and shall maintain and operate the MRF so as to prevent the site from becoming unsightly or a nuisance under applicable law. Recyclables shall be properly stored and/or contained such that:

H.9.8.1 Recyclables shall not be scattered or otherwise strewn about the site;

H.9.8.2 Recyclables shall not generate objectionable odors beyond the boundary of the property; and

H.9.8.3 Each different type of Recyclable shall be segregated and properly accounted for.

H.9.9 The Contractor shall provide the District with a weigh ticket for each load of recyclables.

H.9.10 If the permanent vehicle scales at the MRF are not working properly, the Contractor shall use portable scales certified by the District or state at the MRF. If portable scales or other alternate weighing equipment meeting the requirements of Applicable Law are not available, a "scale outage" will occur, and the Contractor shall estimate the quantity of Recyclables delivered on the basis of truck volumes and historical information supplied by the District.

H.9.11 The Contractor shall notify the COTR within one hour of a scale outage by phone, or leave a recorded message on voice mail to advise the COTR of the need to estimate tonnage. These estimates will take the place of actual

weighing records during the scale outage. In order to participate in the estimating of quantities of Recyclables during a scale outage, the District shall have an employee or agent present in the scale house when each collection

vehicle arrives.

H.9.12 If any test shows that the Contractor's scale registers farther above or below the correct reading than permitted by Applicable Law, all charges and calculations made within thirty (30) days preceding the test must be corrected by the percentage of inaccuracy found. If a test of the scales has been performed during the preceding thirty (30) days, only the readings and related charges and calculations made after that test must be corrected on the basis of the subsequent test.

H.9.13 The Contractor shall provide equipment of the type, size, and capacity as required to sort and process the Recyclables received in compliance with all requirements of the specifications. The contractor shall maintain the Facilities and all equipment in good condition and make timely repairs and replacements to insure satisfactory performance.

H.9.14 The Contractor shall market the processed recyclables to Recyclables buyers or end-users and shall be responsible for transportation or for arranging for transportation of these Recyclables to the market location.

H.9.15 It is the intention of the District that the Contractor makes his best effort to recover and market the maximum quantity of recyclables from the materials delivered. However, due to the uncertain nature of some markets, a situation may arise where a market becomes suddenly and unequivocally closed. In this situation, the contractor may dispose of pre-approved quantities of materials at one of the District's Transfer Station at no charge until such time as collection of the unmarketable material may be halted by the District or the market reopens. Therefore, recyclables may not be disposed of unless:

H.9.15.1 The Contractor can certify to the satisfaction of the COTR that the material is not marketable even at a negative price of up to the current tipping fee, and

H.9.15.2 The Contractor obtains written advanced permission from the COTR to dispose of the material.

H.9.16 The Contractor shall be prohibited from disposing of recyclables except as authorized in Paragraph H.9.15. Recyclables disposed other than as

authorized

shall be deemed wrongfully disposed material. The Contractor shall be assessed liquidated damages penalty fee for each ton of wrongfully Disposed Material equivalent to the tip fee paid at the District transfer stations.

H.10 WAY TO WORK AMENDMENT ACT OF 2006

H.10.1 Except as described in H.10. 8 below, the Contractor shall comply with Title I of the Way

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to Work Amendment Act of 2006, effective June 9, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

H.10.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.

H.10.3 The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

H.10.4 The Department of Employment Services may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.

H.10.5 The Contractor shall provide a copy of the Fact Sheet to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

H.10.6 The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

H.10.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

H.10.8 The requirements of the Living Wage Act of 2006 do not apply to:

H.10.8.1 Contracts or other agreements that are subject to higher wage level determinations required by federal law;

H.10.8.2 Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;

H.10.8.3 Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;

H.10.8.4 Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

H.10.8.5 Contracts or other agreements that provide trainees with additional

services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;

H.10.8.6 An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;

H.10.8.7 Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;

H.10.8.8 Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

H.10.8.9 Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and

H.10.8.10 Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.10.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

H.11 LIQUIDATED DAMAGES:

H.11.1 In addition to Section M.3.2 LIQUIDATED DAMAGES, the following shall apply:

H.11.2 If the Contractor fails to accept Recyclables as required under this contract, wrongfully diverts materials delivered to its Facility by the District or a Designated Hauler, the District shall assess Alternative Processing and Marketing Liquidated Damages equal the sum of the then current transfer and disposal fees charged by District for use by third parties at its solid waste

transfer station

- H.11.3** If the Contractor wrongfully disposes of materials delivered to its Facility by the District or a Designated Hauler, the District shall assess Alternative Processing and Marketing Liquidated Damages equal the sum of the then current transfer and disposal fees charged by District for use by third parties at its solid waste transfer station (tip fee).

H.12 CONFLICT OF INTEREST:

- H.12.1** No official or employee of the District of Columbia or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Code section 2-310.01 and Chapter 18 of the DC Personnel Regulations).
- H.12.2** The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

H.13 DEPARTMENT OF LABOR WAGE DETERMINATION

The contractor shall be bound by the Wage Determination No.2005-2104, Revision No.8 dated May 29, 2008, issued by the U.S. Department of Labor in accordance with the Services Contract Act (41 U.S.C. 351 et seq. and incorporated herein as **Attachment J.1.1** of this solicitation. The Contractor shall be bound by the wage rates for the term of the Contract.

H.14PRICING:

- H.14.1** The contractor's recycling transfer fee and processing price shall include all costs associated with the transporting receiving, processing and marketing the Single Stream of mixed recyclables containing Rigid containers and Paper products from the District's residential recycling collection program.
- H.14.2** The recycling transfer fee shall cover the monthly payment to the Contractor for the transport of recyclables from the Fort Totten and Benning Road transfer stations to the Contractor's processing facility. This cost shall be a line item in the monthly invoice.
- H.14.3** The processing pricing may be positive, negative or zero. A positive price indicates a

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payment by the contractor to the District. A negative indicates a payment by the District to the contractor. This cost shall be a line item on the monthly invoice to the District.

C.14.3.1 Two examples are given below demonstrating how the processing Price will be used.

Example 1

The District causes to be delivered to the MRF in December 2007 150 tons of Single Sort material. There have been no price adjustments. After processing, there were 105 tons of Paper Products, 35 tons of Rigid Containers and 10 tons of Residue. The Initial Processing Fees is -\$50 per ton.

Initial Processing Price = -\$50/ton
Tons Delivered = 150

Where: Initial Processing Price * Tons Delivered = Contractor/District Payment

$$-\$50 * 150 = -\$7,500$$

In this hypothetical scenario, the Contractor would receive from the District a processing payment of \$7,500.

Example 2

The District causes to be delivered to the MRF in April 2008 150 tons of Single Stream material. There has been a Quarterly Adjusted Processing Price adjustment. After processing, there were 105 tons of Paper Products, 35 tons of Rigid Containers and 10 tons of Residue. The Initial Processing Fees is -\$50 per ton. The Quarterly Price Index (QPI) and Quarterly Adjusted Processing Price (QAPP) are as follows:

	<u>Quarter Ending</u>	<u>Paper Products</u>	<u>Rigid Containers</u>
QPI	December 31, 2007	\$35.00	\$95.00
QPI	March 31, 2008	\$42.00	\$90.00
QAPP	June 30, 2008	+\$ 7.00	-\$ 5.00

Where: (Initial Processing Price + Quarterly Adjusted Processing Price Paper Products) * Tons of Paper Products = Contractor/District Payment Paper Products

PLUS

(Initial Processing Price + Quarterly Adjusted Processing Price Rigid Containers) * (Tons of Rigid Containers + Residue) = Contractor/District Payment Rigid Containers

EQUALS

Contractor/District Payment

$$\begin{aligned} (-\$50 + \$7) * 105 &= && -\$4,515 \\ +(-\$50 + -\$5) * (35 + 10) &= && -\$2,475 \\ &&& -\$7,045 \end{aligned}$$

In this hypothetical scenario, the Contractor would receive from the District a payment of \$7,045 reflecting the increased value of Paper Products and decreased value of Rigid Containers during the previous quarter.

H.14.4 Processing prices shall be adjusted each quarter and annually to determine payments to the Contractor, or revenue payable to the District, as enumerated in Section C.4.

H.15 PRICE ADJUSTMENTS:

H.15.1 The District will adjust the prices per ton proposed by the Contractor for receiving, processing, and marketing Recyclables. These adjustments are intended to account for fluctuations in materials market values and inflation.

H.15.2 To reduce the risk to the contractor, and ultimately to the District, of potentially falling markets, and to allow the District to benefit from potentially rising markets, proposed prices shall be adjusted quarterly. The Quarterly Processing Price Adjustment Formula specified in C.4.2.1 will be used to adjust the prices quoted in the Bid for receiving, processing and marketing Rigid Containers and Paper Products.

H.15.2.1 Quarterly Processing Price Adjustment:

A. Quarterly Processing Price Adjustment Formula shall be used to determine the per ton price paid to the Contractor by the District, or the per ton revenue paid to the District by the Contractor, from calendar quarter to calendar quarter. The per ton payment or revenue for a given quarter for Paper Products or Rigid Containers (Quarterly Adjusted Processing Price) is determined by adjusting the Contractor's Bid prices by a Quarterly Price Index (QPI).

B. The QPI is calculated based on an average of published market values for materials in the Rigid Container stream, and for the Paper Products stream, for the calendar quarter spanning the three (3)

months immediately prior to the calendar quarter for which per ton payment or revenue amounts are being determined.

C. The QPI is recalculated in the same manner for each subsequent calendar quarter. Quarterly calculation of the QPI shall be performed by the District and shall then be provided to the Contractor. The first

quarterly calculation of the QPI shall be for the period ending December 31, 2003, and the first price adjustment shall be made for the quarter beginning January 1, 2004. The calculation of each QPI shall be concluded by the 15th day of each applicable quarter.

- D. The calculation of each QPI shall be concluded by the 15th of each applicable quarter

H.15.2.2 **Quarterly Processing Price Adjustment Formula:**

- A. Quarterly Adjusted Processing Price = Initial Processing Price + Quarterly Price Index.

Where:

- B. Quarterly Adjusted Processing Price = Price per ton paid to or due from Contractor.
- C. Initial Processing Price = Price per ton received quoted in the Bid.
- D. Quarterly Price Index (QPI) = Quarterly average value of a ton of processed recyclables, based on indexes and quotes for material types published during the calendar quarter prior to the calendar quarter for which the Quarterly Adjusted Processing Price is being determined.

H.15.3 The Quarterly Price Index shall be computed by adding the calculated averages of published index values (for Paper Products) or the calculated average quote values (for Rigid Containers) and dividing that sum by the number of publications during that quarter. The published index and quote values to be used in computing the QPI are to be found in the following source documents:

H.15.3.1 For Paper Product, the QPI shall be computed from the Southeast region index for “ONP#6” as published in Official Board Markets, Advanstar Communications, 7500 Old Oak Blvd., Cleveland, Ohio, 44130.

H.15.3.2 For Rigid Containers, the QPI shall be computed from quotes (Southeast region) for “flint glass”, “amber glass”, “green glass”,

“steel

cans”, “aluminum cans”, “PET”, “Natural HDPE” and “Colored HDPE” as published in Waste News, Crain Communications, Inc., 1400 Woodbridge, Detroit, Michigan 48207.

H.15.3.3 For Rigid Containers (aluminum cans, steel cans, flint glass, amber glass, green glass, PET, Natural HDPE, Colored HDPE) where the

recyclables are a mix of material types for which there are individually quoted prices, the Quarterly Price Index shall be computed as follows:

All of the published quotes for each material type shall be added and then divided by the number of publications during the quarter. Each

average quote so determined for each material type shall be multiplied by the percent by weight of the material type in the commingled mixture. These products are then added to obtain the Quarterly Price Index for Rigid Containers.

- H.15.3.4 The value for mixed broken glass, which is unpublished, shall be valued at \$0. This should be considered in determining the price provided in the Bid.
- H.153.5 The value for rigid plastics and film, which is unpublished at this time, shall be valued at \$0. At such time as a standard index is established that is agreed upon by the District and the Contractor, a value other than \$0 will be established. This should be considered in determining the price provided in the Bid.
- H.15.3.6 The value of commingled residue, which is unpublished, shall be valued at \$0. The cost of residue disposal should be considered when determining the price provided in the Bid.
- H.15.3.7 For all source documents, in the event the prices for a material are quoted as a range, the median value of the range shall be used in calculations.
- H.15.3.8 The following Rigid Containers mix percentages from District program statistics shall be used in calculating examples of the Quarterly Price Index:

<u>Material</u>	<u>% By Wt.</u>
Glass:	
Clear (flint)	22.8%
Brown	12.5%
Green	12.4%
Mixed Broken	9.7%
Cans:	
Aluminum	5.4%
Steel	9.1%

Plastic Bottles:	
PET	9.8%
HDPE Natural	5.5%
HDPE Colored	3.5%
Rigid Plastics and film	3.5%
Residue	5.8%

H.15.4 The actual distribution of Paper Products and Rigid Containers processed at the MRF during the previous quarter shall be used in the calculation of the Quarterly Price Index. In the event of a dispute between the Contractor and the District concerning the percentage mix of materials processed, the Contracting Officer’s Technical Representative (COTR) shall render a decision. The COTR may require the Contractor To sample the Recyclables to establish or verify mix percentages.

H.15.5 For calculating purposes of the Quarterly Price Index and Quarterly Adjusted Processing

Price for Rigid Containers, four (4) examples are given below demonstrating how the Quarterly Price Index and the Quarterly Adjusted Processing Price will be computed.

Example 1

Hypothetical published price quotes for each material type are averaged by adding the individual price quotes from Waste News, Southeast Region, and dividing this total by the number of publications (in this case, 7) as follows:

<u>Material Type</u>	<u>Publication Dates</u>							<u>Average</u>
	<u>4/2</u>	<u>4/16</u>	<u>4/30</u>	<u>5/14</u>	<u>5/28</u>	<u>6/11</u>	<u>6/25</u>	
Glass:								
Flint	\$ 25	\$24	\$ 24	\$ 26	\$ 26	\$ 25	\$ 25	\$ 25
Amber	\$ 17	\$ 17	\$ 16	\$ 16	\$ 18	\$ 18	\$ 17	\$ 17
Green	\$ -4	\$ -4	\$ -4	\$ -4	\$ -4	\$ -4	\$ -4	\$ -4
Mixed	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Cans:								
Steel	\$ 17	\$ 15	\$ 15	\$ 13	\$ 13	\$ 18	\$ 18	\$ 15.57
Alum.	\$ 740	\$ 720	\$ 720	\$ 680	\$ 680	\$ 680	\$ 640	\$ 694.29
Plastic:								
PET	\$ 240	\$ 240	\$ 260	\$ 240	\$ 240	\$ 240	\$ 240	\$ 242.86

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HDPE	\$ 170	\$ 140	\$ 140	\$ 160	\$ 160	\$ 180	\$ 180	\$ 161.43
HDPE	\$ 240	\$ 260	\$ 260	\$ 280	\$ 280	\$ 280	\$ 280	\$ 268.57

A Quarterly Price Index is calculated below based upon the hypothetical average priced computed above. The weighted average prices for material types are computed as follows:

Type	Average Published Price During Hypothetical Quarter (April 1 - June 30)	x	Material % by Weight	=	Weighted Average Price
Glass:					
Clear	\$ 25	x	22.8%	=	\$ 5.70
Brown	\$ 17	x	12.5%	=	\$ 2.13
Green	\$ -4	x	12.4%	=	\$ - .50
Mixed Broken	\$ 0	x	9.7%	=	\$ 0
Type	Average Published Price During Hypothetical Quarter (April 1 - June 30)	x	Material % by Weight	=	Weighted Average Price
Cans:					
Aluminum	\$ 694.29	x	5.4%	=	\$ 37.49
Steel	\$ 15.57	x	9.1%	=	\$ 1.42
Plastic Bottles:					
PET	\$ 242.86	x	9.8%	=	\$ 23.80
HDPE Natural	\$ 268.57	x	5.5%	=	\$ 14.77
HDPE Colored	\$ 161.43	x	3.5%	=	\$ 5.65
Rigid Plastics & Film	\$ 0	x	3.5%	=	\$ 0
Residue	\$ 0	x	5.8%	=	\$ 0
Quarterly Price Index (Hypothetical) (Sum of Individual Weighted Averages)				=	\$90.46/ton

Example 2

A Quarterly Price Index is calculated below based upon hypothetical Waste News; Southeast Region published prices which reflect improved market conditions. Assume that average prices for each material type were determined

using the method detailed in Example 1. The weighted average prices for material types are then computed as follows:

Type	Average Published Price During Hypothetical Quarter (July 1 - Sept 30)	x	Material % by Weight	=	Weighted Average Price
Glass:					
Clear	\$ 35	x	22.8%	=	\$ 7.98
Brown	\$ 20	x	12.5%	=	\$ 2.50
Green	\$ -4	x	12.4%	=	\$ - .50
Mixed Broken	\$ 0	x	9.7%	=	\$ 0
Cans:					
Aluminum	\$ 900	x	5.4%	=	\$ 48.60
Steel	\$ 30	x	9.1%	=	\$ 2.73
Type	Average Published Price During Hypothetical Quarter (July 1 - Sept 30)	x	Material % by Weight	=	Weighted Average Price
Plastic Bottles:					
PET	\$ 220	x	9.8%	=	\$ 21.56
HDPE Natural	\$ 320	x	5.5%	=	\$ 17.60
HDPE Colored	\$ 180	x	3.5%	=	\$ 6.30
Rigid Plastics & Film	\$ 0	x	3.5%	=	\$ 0
Residue	\$ 0	x	9.3%	=	\$ 0
Quarterly Price Index (Hypothetical) (Sum of Individual Weighted Averages)				=	\$106.77/ton

Example 3

A Quarterly Adjusted Processing Price is calculated below for Rigid Containers, assuming an Initial Processing Price of -\$100/ton, and using the Quarterly Price Index calculated in Example 1.

Initial Processing Price for Rigid Containers = -\$100/ton
 Quarterly Price Index (from Example 1) = \$90.46/ton

Where: Quarterly Adjusted Processing Price = Initial Processing Price + Quarterly Price Index

$$= -\$100/\text{ton} + \$90.46/\text{ton} = -\$9.54/\text{ton}$$

In this hypothetical scenario, the Contractor is receiving \$9.54/ton from the District plus a theoretical \$90.46/ton from marketing of the Rigid Containers.

Example 4

A Quarterly Adjusted Processing Price is calculated below for Rigid Containers assuming an Initial Processing Price of -\$100/ton and using the Quarterly Price Index calculated in Example 2.

Initial Processing Price for Rigid Containers = -\$100/ton
 Quarterly Price Index (from Example 2) = \$106.77/ton

Where: Quarterly Adjusted Processing Price = Initial Processing Price + Quarterly Price Index

$$= -\$100/\text{ton} + \$106.77/\text{ton} = \$6.77/\text{ton}$$

In this scenario, the District receives \$6.77/ton from the Contractor. The Contractor receives a theoretical \$106.77/ton from marketing of the Rigid Containers.

H.15.6 Calculating the Quarterly Price Index and the Quarterly Adjusted Processing Price for Paper Products.

HH.15.6.1 Three (3) examples are given below demonstrating how the Quarterly Price Index and The Quarterly Adjusted Processing Price will be computed.

Example 1

A Quarterly Price Index is calculated below for Paper Products based on hypothetical Official Board Markets, (Southeast) published price ranges as follows:

<u>Publication Dates</u>	<u>Published Price Ranges</u>	<u>Average Price for Each Publication</u>
4/1/2008	\$ 5 - 10	\$ 7.50
4/8/2008	\$ 5 - 10	\$ 7.50

4/15/2008	\$ 5 - 10	\$ 7.50
4/22/2008	\$ 5 - 10	\$ 7.50
4/29/2008	\$ 5 - 10	\$ 7.50
5/6/2008	\$ 10 - 15	\$ 12.50
5/13/2008	\$ 10 - 15	\$ 12.50
5/20/2008	\$ 10 - 15	\$ 12.50
5/27/2008	\$ 10 - 15	\$ 12.50
6/3/2008	\$ 10 - 15	\$ 12.50
6/10/2008	\$ 10 - 15	\$ 12.50
6/17/2008	\$ 10 - 15	\$ 12.50
6/24/2008	\$ 10 - 15	\$ 12.50
		TOTAL \$ 137.50

Quarterly Price Index = Sum of average prices for each publication date x number of publications

= \$ 137.50 divided by 13
 = 10.58/ton

Example 2

A Quarterly Adjusted Processing Price is calculated below for Paper Products assuming an Initial Processing Price of -\$15/ton, and using the Quarterly Price Index from Example 1.

Initial Paper Products Processing Price = -\$15/ton
 Quarterly Price Index (from Example 1) = \$10.58/ton

Where: Quarterly Adjusted Processing Price = Initial Processing Price + Quarterly Price Index

= -\$15/ton + \$10.58/ton = -\$4.42/ton

In this hypothetical scenario, the Contractor is receiving \$4.42/ton from the District plus a theoretical \$10.58/ton from marketing of the Paper Products.

Example 3

A Quarterly Adjusted Processing Price is calculated below for Paper Products assuming an Initial Processing Price of -\$15/ton, and using a Quarterly Price Index

which reflects improved market conditions as compared to Example 2.

Initial Processing Price = -\$15/ton

Quarterly Price Index = \$17.50/ton

Where: Quarterly Adjusted Processing Price = Initial Processing Price + Quarterly Price Index

= -\$15/ton + \$17.50/ton = \$2.50/ton

In this hypothetical scenario, the District receives \$2.50/ton from the Contractor. The Contractor receives a theoretical \$17.50/ton from marketing of the Paper Products.

Note: The Contractor who can market their materials for more than the published market average prices has the opportunity to realize higher profits.

H.15.7 Cost of Living Adjustment (COLA): The adjustment will be applied to the per ton Processing Prices as quoted in the Bid submission for receiving, processing and marketing Rigid Containers and Paper Products.

H.157.1 Per ton processing prices as quoted in the Bid will be adjusted October 1st beginning October 1, 2010, when the Bureau of Labor Statistics Consumer Price Index (CPI-W, Washington-Baltimore Area, DC-MD-VA-WV (November 1996=100), for wage earners and clerks, shows a change from the base index for July 2009.

H.157.2 A review of the July Consumer Price Index shall be made each year.

H.15.7.3 The price adjustment will be effective October 1st through the following September 30th.

H.15.7.4 As a hypothetical example of the COLA calculation, assume that the proposed Processing Price for Rigid Containers is -\$100/ton and the Consumer Price

Index increased from 110.6, on the reference date, to 113.8 for the July preceding the October 1st effective date. The Cost of Living Adjustment would be calculated as follows:

$$\frac{(113.8 - 110.6)}{110.6} \times 100 = 2.89\%$$

The following renewal period, the Processing Price would be increased by

\$2.90 (-\$100 x .029 = -\$2.90) to -\$102.90/ton.

H.15.7.5 Priority for calculating adjustments: When both a Cost of Living Adjustment and a Quarterly Processing Price Adjustment are to be made for the same period, the Cost of Living Adjustment will be made first and the Quarterly Processing Price Adjustment second.

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts dated March 2007, incorporated herein.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of this contract beyond the fiscal year is contingent upon future fiscal

appropriations.

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by the Contractor relating to any employee of the District or customer of the District shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 TIME

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.5 RIGHTS IN DATA

I.5.1 “Data,” as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

I.5.2 The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation.

Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

I.5.3 The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs.

Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.

- I.5.4** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.5.5** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.
- I.5.6** The District will have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.5.6.1** Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
- I.5.6.2** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- I.5.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.
- I.5.7** The restricted rights set forth in section I.5.6 are of no effect unless
- (i) the data is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____
With _____ (Contractor's Name); and

- (ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.

I.5.8 In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any

works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

I.5.9 Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Contractor shall use this clause, I.5, Rights in Data, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

I.5.10 For all computer software furnished to the District with the rights specified in Section I.5.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.5.5. For all computer software furnished to the District with the restricted rights specified in Section I.5.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a single copy of the

documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

- I.5.11** The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.
- I.5.12** Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- I.5.13** Paragraphs I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work

I.6 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District Contractor or by any District employee.

I.7 FIRST SOURCE EMPLOYMENT AGREEMENT

The Contractor shall maintain compliance with the terms and conditions of the First Source Employment Agreement, incorporated herein, executed between the District of Columbia

and the Contractor throughout the entire duration of the contract, including option periods if any as specified in Section H.3.

I.8 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District shall have the right to review and approve prior to its execution to the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.9 PRE-AWARD APPROVAL

In accordance with D.C. Official Code §2-301.05a and §1-204.51(c), the Council of the District of Columbia must approve award of any contract that has obligations that extend beyond the fiscal year for which appropriated

I.10 CONTINUITY OF SERVICES

I.10.1 The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another contractor, at the District's option, may continue to provide these services. to that end, the Contractor agrees to:

I.10.1.1 Furnish phase-out, phase-in (transition) training; and

I.10.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.11 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein.. An award cannot be made to any Bidder who has not satisfied the equal employment requirements as set forth by the Department of Human Rights and Local Business Development.

I.12 ESTIMATED QUANTITIES

It is the intent of the District to secure a contract for all of the needs of the designated agencies for items specified herein which may occur during the contract term. The District agrees that it will purchase its requirements of the articles or services included herein from the Contractor. Articles or services specified herein have a history of repetitive use in the District agencies. The estimated quantities stated in the Invitation for Bids reflect the best estimates available. They shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of his obligation to fill all such orders. Orders will be placed from time to time if and when needs arise for delivery, all charges prepaid, to the ordering agency. The District does not guarantee to order any specific quantities of any item(s) or work hours of service.

I.12.1 The District is presently collecting approximately 8,500 tons per year of Rigid

Containers and 16,500 tons per year of Paper Products (Paper Products) from its curbside and multi-family recycling routes. .

I.12.2 Quantities are estimated for planning purposes only. The District does not guarantee quantities.

I.13 INSURANCE

I.13.1 Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall submit a certificate of insurance giving evidence of the required coverages prior to commencing work. All insurance shall be written with responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed; have either an A.M. Best Company rating of A-VIII or higher, a Standard & Poor's rating of AA or higher, or a Moody's rating of Aa2 or higher. The Contractor shall require all subcontractors to carry the insurance required herein, or Contractor may, at its option, provide the coverage for any or all subcontractors, and if so, the evidence of insurance submitted shall so stipulate. All policies (excluding Workers' Compensation and Professional Liability, if applicable) shall name the District as an additional insured with respect to work or services performed under the Contract. All policies provided that the insurance coverage provided hereunder will be primary and noncontributory with any other applicable insurance. All policies shall contain a waiver of subrogation in favor of the District of Columbia. In no event shall work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer (s) has been furnished. All policies shall provide that the Contracting Officer shall be given thirty (30) days prior written notice via certified mail in the event coverage is substantially changed, canceled or not renewed.

- (a) Certificate of Insurance Requirement. The policy description on the Certificate of Insurance form include the contract number, the contract award date (if available), the contract expiration date (if available), the name of the requesting agency, the name of the contracting officer, a brief description of the work to be performed, the job location, the District as an additional insured, and a waiver of subrogation.
- (b) Commercial General Liability Insurance: The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed, that it carries \$1,000,000 limits per occurrence; \$2,000,000 per aggregate; \$1,000,000 for products and completed operations; and \$1,000,000 for personal and advertising injury. The policy coverage shall be primary and non-contributory, shall contain the CGL 2503 per project endorsement, and shall include the District of Columbia as an additional insured.

Commercial General Liability Insurance: If the Contractor is providing insurance for a subcontractor, The Contractor shall provide evidence satisfactory to the

Contracting Officer with respect to the operations performed, that it carries \$1,000,000 limits per occurrence; \$2,000,000 per aggregate; \$1,000,000 for products and completed operations; and \$1,000,000 for personal and advertising injury. The policy coverage shall be primary and non-contributory, shall contain the CGL 2503 per project endorsement, and shall include the District of Columbia as an additional insured.

- (d) Automobile Liability Insurance: The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of the contract. The policy shall cover the operations performed under the contract with a \$1,000,000 per occurrence combined single limit for bodily injury and property damage. The policy coverage shall be primary and non-contributory and shall include the District of Columbia as an additional insured.
- (e) Worker's Compensation Insurance: The Contractor shall provide Workers' Compensation insurance in accordance to the statutes mandates of the District of Columbia or the jurisdiction in which the contract is performed. Employer's Liability Insurance: The Contractor shall provide employer's liability insurance as follows: \$1,000,000 per accident for injury, \$1,000,000 per employee for disease, \$1,000,000 for policy disease limit.
- (f) Umbrella/Excess Liability Insurance: The Contractor shall provide umbrella or excess liability insurance as follows: \$2,000,000 limits per occurrence and \$2,000,000 per aggregate, with the District of Columbia as an additional insured.

I.13.2 DURATION

The Contractor shall carry all insurance until all contract work is accepted by the District. Each insurance policy shall contain a binding endorsement that: The insurer agrees that the

Contracting Officer shall be given thirty (30) days prior written notice via certified mail in the event coverage is substantially changed, canceled or not renewed.

I.13.3 CONTRACTOR'S PROPERTY

Contractors and subcontractors are solely responsible for any loss or damage to their personal property, including owned and leased equipment, whether such equipment is located as a project site or "in transit". This includes Contractor tools and equipment, scaffolding and temporary structure, and rented machinery, storage sheds or trailers placed on the project site.

I.13.4 MEASURE OF PAYMENT

The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the cost price.

I.14 LICENSES, PERMITS AND REGISTRATION

The contractor shall obtain at its expense, any licenses, including master business licenses, permits or registrations necessary for the performance of this contract.

I.15 CANCELLATION CEILING:

In the event of cancellation of the contract because of nonappropriation for any subsequent fiscal year, there shall be a cancellation ceiling of zero dollars representing reasonable preproduction and other non-recurring costs, which would be applicable to the items or services being furnished and normally amortized over the life of the contract.

I.16 MULTI-YEAR CONTRACT TERM:

This is a five (5) year multi-year contract for goods and services for which some of the funds would otherwise be available for obligation only within the fiscal year for which appropriated, subject to the contracting officer issuing a Notice to Proceed. If these funds are not made available for the continuation of the contract into a subsequent fiscal year, the contract shall be canceled or terminated, and the cost of the cancellation or termination may be paid from appropriations originally available for the performance of the contract concerned; appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or funds appropriated for those payments.

I.17 BIDDER'S AUTHORIZATION TO EXTEND CONTRACT:

<u>YES</u>	<u>NO</u>	<u>JURISDICTION</u>	<u>YES</u>	<u>NO</u>	<u>JURISDICTION</u>
___	___	Alexandria, Virginia	___	___	Met. Wash. Airports Authority
___	___	Alexandria Public School	___	___	Met. Wash. Council of Government
___	___	Arlington County, Virginia	___	___	Montgomery College
___	___	Arlington County Public School	___	___	Montgomery County, Maryland
___	___	Bowie, Maryland	___	___	Mont. County Public Schools

___	___	Charles County Public Schools	___	___	Prince George's County, Maryland
___	___	College Park, Maryland	___	___	Prince George's Public Schools
___	___	Culpeper County, Virginia	___	___	Prince William County, Virginia
___	___	District of Columbia	___	___	Prince William Public Schools
___	___	District of Columbia Courts	___	___	Prince William County Service Authority
___	___	District of Columbia Public Schools	___	___	Rockville, Maryland
___	___	D.C. Water & Sewer Authority.	___	___	Stafford County, Virginia
___	___	Fairfax, Virginia	___	___	Takoma Park, Maryland
___	___	Spotsylvania County Schools	___	___	Vienna, Virginia
___	___	Fairfax County, Virginia	___	___	Wash. Metro. Area Transit Authority
___	___	Fairfax County Water Authority	___	___	Wash. Suburban Sanitary Comm.
___	___	Falls Church, Virginia	___	___	Winchester Public Schools
___	___	Fauquier City. Sch. & Govt., VA	___	___	Herndon, Virginia
___	___	Frederick County, Maryland	___	___	Loudoun County, Virginia
___	___	Manassas Public Schools	___	___	
___	___	Gaithersburg, Maryland	___	___	
___	___	Greenbelt, Maryland	___	___	
___	___	Manassas, Virginia	___	___	
___	___	MD-Nat. Cap. Park & Plng. Comm.	___	___	

Vendor Name

SECTION J

J.1 ATTACHMENTS

- J.1.1** Wage Determination No.2005-2104, Revision No. 8
- J.1.2** “The Living Wage Act of 2006” Notice
- J.1.3** “The Living Wage Act of 2006”, Fact Sheet
- J.1.4** Bond Forms

J.1.5 Proposed Materials Recycling Processing Facilities and End Markets

J.2 **INCORPORATED ATTACHMENTS** (The following forms, located at www.ocp.dc.gov shall be completed and incorporated with the bid.)

J.2.1 First Source Employment Agreement

J.2.2 Tax Certification Affidavit – OTR and DOES

J.2.3 E.E.O. Information and Mayor Orders 85-85

J.2.4 The Living Wage Act of 2006

SECTION K

K.1 TYPE OF BUSINESS ORGANIZATION

K.1.1 The bidder, by checking the applicable box, represents that

(a) It operates as:

- a corporation incorporated under the laws of the State of: _____
- an individual,
- a partnership,
- a nonprofit organization, or
- a joint venture.

(b) If the bidder is a foreign entity, it operates as:

- an individual,
- a joint venture, or
- a corporation registered for business in _____
(Country)

K.2 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS

Mayor's Order 85-85, "Compliance with Equal Opportunity Obligations in Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts", promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to complete the certification may result in rejection of the bidder for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this contract.

Bidder _____ Date _____

Name _____ Title _____

Signature _____

Bidder ____ has ____ has not participated in a previous contract or subcontract subject to the Mayor’s Order 85-85. Bidder ____ has ____ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed sub-bidders. (The above representations need not be submitted in connection with contracts or subcontracts which are exempt from the Mayor’s Order.)

K.3 BUY AMERICAN CERTIFICATION

The bidder hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in Paragraph 23 of the SCP, “Buy American Act”), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

	EXCLUDED END PRODUCTS
	COUNTRY OF ORIGIN

K.4 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION

Each Bidder shall check one of the following:

_____ No person listed in Clause 13 of the SCP, “District Employees Not To Benefit” will benefit from this contract.

_____ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the SCP.

K.5 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) Each signature of the bidder is considered to be a certification by the signatory that:

- 1) The prices in this contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any bidder or competitor relating to:
 - (i) those prices
 - (ii) the intention to submit a contract, or
 - (iii) the methods or factors used to calculate the prices in the contract.

- 2) The prices in this Contract have not been and will not be knowingly disclosed by the Bidder, directly or indirectly, to any other Bidder or competitor before Contract opening unless otherwise required by law; and
 - 3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.
- (b) Each signature on the bid is considered to be a certification by the signatory that the signatory:
- 1) Is the person in the bidder's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - 2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

(insert full name of person(s) in the organization responsible for determining the prices offered in this contract and the title of his or her position in the bidder's organization);

As an authorized agent, does certify that the principals named in subdivision (b)(2) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

- (c) If the bidder deletes or modifies subparagraph (a)(2) above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

K.7 TAX CERTIFICATION

Each bidder must submit with its bid, a sworn Tax Certification Affidavit, incorporated herein.

SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

L.1 METHOD OF AWARD

L.1.1 Contract Type

The District contemplates award of one requirements contract, based on a fixed unit price with economic price adjustments resulting from this solicitation to the responsive and responsible bidder who has the lowest evaluated bid price. The contractor shall deliver all items in accordance with the terms and conditions of the contract

L.1.2 The District reserves the right to accept/reject any/all bids resulting from this solicitation. The Contracting Officer may reject all bids or waive any minor informality or irregularity in bids received whenever it is determined that such action is in the best interest of the District.

L.1.3 The District intends, but is not obligated to award a single contract from this solicitation to the responsive and responsible bidder who has/have the lowest bid.

L.2 PREPARATION AND SUBMISSION OF BIDS

L.2.1 Bidders shall submit a signed original and two (2) copies. The District will not accept a facsimile copy of a bid as an original bid. All items accepted by the District, all pages of the Invitation for Bids (IFB), all attachments and all documents containing the bidder's offer shall constitute the formal contract. **Each bid shall be submitted in a sealed envelope conspicuously marked: "Bid in Response to Solicitation No. DCKT-2009-B-0002, Materials Recovery Facility."**

L.2.2 The original bid shall govern if there is a variance between the original bid and the copy submitted by the bidder. Each bidder shall return the complete solicitation as its bid.

L.2.3 The District may reject as non-responsive any bid that fails to conform in any material respect to the Invitation for Bids.

L.2.4 The District may also reject as non-responsive any bids submitted on forms not included in or required by the solicitation. Bidders shall make no changes to the requirements set forth in the solicitation.

L.3 FAMILIARIZATION WITH CONDITIONS (SERVICES)

Bidders shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered and the conditions under which the work is to be accomplished. Bidders will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

L.4 INSPECTION OF SITE:

Bidders are cautioned to visit the sites of the proposed work to inspect and familiarize themselves with the extent of the work. Failure to comply with this caution or to thoroughly investigate said job conditions will not be accepted as a proper basis for considering an alleged error in bid, for withdrawal of bid, to relieve the contractor of any obligation under the contract, or for payment of extras under or revision of the contract. For inspection appointment, contact:

William Easley
Department of Public Works
Office of Recycling
3220 Pennsylvania Avenue, SE
Washington, D.C. 20020
(202) 645-8513

L.5 PRE-BID CONFERENCE:

A pre-bid conference will be held at **(insert time)**. on **(insert date)** at the Reeves Municipal Center, 2000 – 14th Street, NW, 6th Floor conference room A, Washington, DC 20009. Prospective bidders will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from bidders on the SOLICITATION document as well as to clarify the contents of the SOLICITATION.

Attending bidders must complete the Pre-Bid Conference Attendance Roster at the conference so that bidder attendance can be properly recorded.

Impromptu questions will be permitted and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-bid conference are only intended for general discussion and do not represent the Department's Final position. All oral questions must be submitted in writing following the close of the pre-bid conference but no later than five working days after the pre-bid conference in order to generate an official

answer. Official answers will be provided in writing to all prospective bidders who are listed on the official bidder's list as having received a copy of the solicitation. Answers will be posted on the OCP website at www.ocp.dc.gov.

L.6 BID SUBMISSION DATE AND TIME

Bids must be submitted no later than 2:00 p.m. local time on the date as specified on page one of this solicitation.

L.7 WITHDRAWAL OR MODIFICATION OF BIDS

A bidder may modify or withdraw its bid upon written, telegraphic notice, or facsimile transmission if received at the location designated in the solicitation for submission of bids, but not later than the exact time set for opening of bids.

L.8 LATE SUBMISSIONS , LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.8.1 Bids, modifications to bids, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

- a. The bid or modification was sent by registered or certified mail no later than the fifth (5th) calendar day before the date specified for receipt of bids;
- b. The bid or modification was sent by mail and it is determined by the Contracting Officer that the late receipt at the location specified in the solicitation was caused by mishandling by the District after receipt.

L.8.2 Postmarks

The only acceptable evidence to establish the date of a late bid, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the bid shall be considered late unless the bidder can furnish evidence from the postal authorities of timely mailing.

L.8.3 Late Submissions

A late bid, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

L.8.4 Late Modifications

A late modification of a successful bid, which makes its terms more favorable to the District, shall be considered at any time it is received and may be accepted.

L.8.5 Late Bids

A late bid, late modification or late withdrawal of a bid that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful bids resulting from this solicitation.

L.9 MAIL OR DELIVER BID ORIGINAL AND TWO COPIES TO:

Department of Public Works
Office of Contracting & Procurement
2000 – 14th Street, NW, 3rd Floor
Washington, D. C. 20009
Telephone Number (202) 673-6880

L.10 ERRORS IN BIDS

Bidders are expected to read and understand fully all information and requirements contained in the solicitation; failure to do so will be at the bidders risk. In event of a discrepancy between the unit price and the total price, the unit price shall govern.

L.11 QUESTIONS ABOUT THE SOLICITATION

If a prospective bidder has questions relative to the solicitation, the prospective bidder shall submit the questions to the Contracting Officer in writing. The prospective bidder shall submit questions at least five (5) calendar days before the opening of bids. The District may not consider questions received less than five (5) calendar days before the date set for opening bids. The District will furnish promptly to all prospective bidders as an amendment to the solicitation, any information given a prospective bidder concerning the solicitation if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders. Oral communications shall not be binding.

L.12 FAILURE TO RESPOND TO SOLICITATION

Recipients of this solicitation not responding with a bid should not return this solicitation. Instead, they should advise the Contract Specialist, Department of Public Works, 2000 – 14th Street, NW , 6th Floor, Washington, D.C. 20009 , Telephone No. (202) 671-04842389, by letter or postcard whether they want to receive future solicitations for similar requirements.

It is also requested that such recipients advise the Contract Specialist of the reason for not submitting a bid in response to this solicitation. If a recipient does not submit a bid and does not notify the Contract Specialist that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.13 BID PROTESTS

Any actual or prospective bidder, or contractor who is aggrieved in connection with the solicitation or award of a contract must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed with the Board prior to bid opening or the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 – 14th Street, N.W., Suite 430, Washington, DC 20004. The aggrieved person shall mail a copy of the protest to the Contracting Officer for the solicitation.

L.14 SIGNING BIDS AND CERTIFICATIONS

L.14.1 The Contractor shall sign the bid and print or type its name on the **Solicitation, Offer and Award** form of this solicitation. Each bid must show a full business address and telephone number of the bidder and be signed by the person or persons legally authorized to sign contracts. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Contracting Officer.

L.14.2 All correspondence concerning the bid or resulting contract will be mailed to the address shown on the bid in the absence of written instructions from the bidder or contractor to the contrary. Any bid submitted by a partnership must be signed with the partnership name by a general partnership with authority to bind the partnership. Any bid submitted by a corporation must be signed with the name of the corporation, followed by the signature

and title of the person having authority to sign for the corporation. Bidder shall complete and sign all Representations, Certifications and acknowledgements as appropriate. Failure to do so may result in a bid rejection.

L.15 ACKNOWLEDGMENT OF AMENDMENTS

L.15.1 The bidder shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose on Page 1, Section 14 of the solicitation; or (c) by letter or telegram, including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of bids. Bidders' failure to acknowledge an amendment may result in rejection of the bid.

L.16 ACCEPTANCE PERIOD:

The bidder agrees that its bid remains valid for a period of 90 days from the solicitation's closing date.

L.17 LEGAL STATUS OF BIDDER

Each bid must provide the following information:

L.17.1 Name, Address, Telephone Number, Federal tax identification number and DUNS Number of Bidder;

L.17.2 The District of Columbia is required by law to obtain such license, registration or certification. If the bidder is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the bid shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

L.17.3 If the Bidder is a partnership or joint venture, names of general partners or joint ventures, and copies of any joint venture or teaming agreements.

L.17.4 The District reserves the right to request additional information regarding the Bidder's organizational status.

L.18 SECURITY REQUIREMENTS

All bids submitted in response to this IFB shall include a bid guarantee and performance security as specified below.

L.18.1 Each bid shall be accompanied by a bid guarantee in the form of a bond (see Bond

Form Instructions and Bid Bond), certified check payable to the "District of Columbia Treasurer," irrevocable letter of credit issued by a federally insured financial institution, or United States Government securities that are assigned to the District and which pledge the full faith and credit of the United States.

The bid guarantee shall be in an amount equal to five percent of the bidder's proposed first year contract price set forth in the bid.

For additional information regarding guarantee and bond requirements, bidder's may refer to Chapter 27 of the District's Procurement Regulations (27 DCMR 2700.1 et seq). The purpose of the bid guarantee is as stated in **Attachment J.1.1.5**.

L.18.2 Performance Security:

Prior to contract execution and within seven days after being called upon by the District to do so, the successful bidder shall provide the District with a performance security.

Due to the essential and critical nature of the services being specified in this contract, the performance security shall be in an amount equal to 100 percent of the contractor's proposed first year contract price.

Any change in work, extension of time, or termination of this contract, shall in no way release the contractor or any of its sureties from any of their obligations.

During the contract term if any individual or a series of modifications which increases the total contract price by \$500,000 or more are made to the contract, resulting from this IFB after contract execution, the contractor shall be required to provide an additional performance security, or increase its existing security, in an amount such that the total security remains equal to 100 percent of the contract's total price.

Any such additions or increases in the posted performance security shall be made within 30 days of execution of the contract modification.

Thirty (30) days prior to the expiration of the contract or any extensions thereof, the Contractor shall submit performance security, in an amount such that the total security remains equal to 100 percent of the total price for any proposed extensions.

L.19 STANDARDS OF RESPONSIBILITY

The prospective Contractor must demonstrate to the satisfaction of the District the capability in all respects to perform fully the contract requirements, therefore, the prospective Contractor must submit the documentation listed below, within five (5) days of the request by the District.

- L.19.1** Furnish evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.
- L.19.2** Furnish evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- L.19.3** Furnish evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them. The contractor shall submit documentation authenticating three (3) years experience in the provision of single stream recyclables processing and marketing. The documentation must contain the annual amount of materials processed and marketed, and the names, addresses and phone numbers of (3) customers that may be called for information.
- L.19.4** Furnish evidence of compliance with the applicable District licensing, tax laws and regulations.
- L.19.5** Furnish evidence of a satisfactory performance record, record of integrity and business ethics.
- L.19.6** Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.19.7** Furnish evidence of the necessary vehicles and vehicle titles that will be used to perform the services requested in this contract.
- L.19.8** Furnish evidence of disposal agreement to a licensed disposal facility.
- L.19.9** Furnish evidence of all appropriate insurance necessary for the performance of this contract.
- L.19.10** Furnish evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.
- L.19.11** If the prospective Contractor fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or non-

responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the prospective Contractor to be nonresponsible.

L.21 CONTRACTOR'S EQUIPMENT:

Prior to award, the COTR shall determine whether the bidder's vehicles and equipment meet the standards set forth in 21 DCMR, Chapter 7, Solid Waste Control. The contractor shall provide vehicle titles at the request of the COTR. The District shall inspect all vehicles to be used in the performance of this contract, specifically to insure that all inspection requirements are met and to evaluate the condition of the equipment. All such inspections shall be made prior to contract award. Originals of the vehicle titles and registrations shall be on hand at the time of inspection, as well as legible duplicates that shall be given to the persons inspecting the vehicles.

The Contractor's equipment shall be subject to inspection by the District within five (5) days from the date of a written notice. The equipment shall be cleaned by the contractor and made available to the District for inspection. Deficiencies found during the inspection shall be corrected by the contractor to the satisfaction of the District within five days at no cost to the District.

SECTION M

CLAUSES APPLICABLE TO ALL OPEN MARKET SOLICITATIONS

M.1 PREFERENCES FOR LOCAL BUSINESSES, DISADVANTAGED BUSINESS OR BUSINESS OPERATING IN AN ENTERPRISE ZONE

M.1.1 General Preferences

Under the provisions of D.C. Law 13-169, “Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Amendment Act of 2000” (the Act), the District shall apply preferences in evaluating bids or proposals from businesses that are local, disadvantaged, resident business ownership or located in an enterprise zone of the District of Columbia.

For evaluation purposes, the allowable preferences under the Act for this procurement are as follows:

- M.1.1.1 Four percent reduction in the bid price or the addition of four points on a 100-point scale for a local business enterprise (LBE) certified by the Local Business Opportunity Commission (LBOC);
 - M.1.1.2 Three percent reduction in the bid price or the addition of three points on a 100-point scale for a disadvantaged business enterprise (DBE) certified by the LBOC;
 - M.1.1.3 Three percent reduction in the bid price or the addition of three points on a 100-point scale for a resident business ownership (RBO), as defined in Section 2(a)(8A) of the Act, and certified by the LBOC; and
 - M.1.1.4 Two percent reduction in the bid price or the addition of two points on a 100-point scale for a business located in an enterprise zone, as defined in Section 2(5) of D.C. Law 12-268 and in 27 DCMR 899, 39 DCR 9087-9088 (December 4, 1992).
- A. Any prime contractor that is a LBE certified by the LBOC will receive a four percent (4%) reduction in the bid price for a bid submitted by the LBE in response to an Invitation for Bids (IFB) or the addition of four points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to a Request for Proposals (RFP).
 - B. Any prime contractor that is a DBE certified by the LBOC will receive a three percent (3%) reduction in the bid price for a bid submitted by the DBE in response to an IFB or the addition of three points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to a RFP.

- C. Any prime contractor that is a RBO certified by the LBOC will receive a three percent (3%) reduction in the bid price for a bid submitted by the RBO in response to an IFB or the addition of three points on a 100-point scale added to the overall score for proposals submitted by the RBO in response to a RFP.
- D. Any prime contractor that is a business enterprise located in an enterprise zone will receive a two percent (2%) reduction in the bid price for a bid submitted by such business enterprise in response to an IFB or the addition of two points on a 100-point scale added to the overall score for proposals submitted by such business in response to a RFP.

M.1.2 Preferences for Subcontracting in Open Market Solicitations with No LBE, DBE, RBO Subcontracting Set-Aside

The preferences for subcontracting in open market solicitations where there is no LBE, DBE or RBO subcontracting set-aside are as follows:

- A) If the prime contractor is not a certified LBE, certified DBE, certified RBO or a business located in an enterprise zone, the District will award the above-stated preferences by reducing the bid price or by increasing the points proportionally based on the total dollar value of the bid or proposal that is designated by the prime contractor for subcontracting with a certified LBE, DBE, RBO or business located in an enterprise zone.
- B) If the prime contractor is a joint venture that is not a certified LBE, certified DBE or certified RBO joint venture, or if the prime contractor is joint venture that includes a business in an enterprise zone but such business located in an enterprise zone does not own and control at least 51% of the joint venture, the District will award the above-stated preferences by reducing the bid price or by increasing the points proportionally in the proposal based on the total dollar value of the bid or proposal that is designated by the prime contractor for a certified LBE, DBE , RBO or business located in an enterprise zone, for participation in the joint venture.

For Example:

If a non-certified prime contractor subcontracts with a certified local business enterprise for a percentage of the work to be performed on an RFP, the calculation of the percentage points to be added during evaluation would be according to the following formula:

$$\frac{\text{Amount of Subcontract}}{\text{Amount of Contract}} \times 4^* = \text{Points Awarded During Evaluation for LBE Subcontracting}$$

*Note: Equivalent of four (4) points on a 100-point scale

The maximum total preference under the Act for this procurement is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to a RFP. Any prime contractor receiving the full bid price reduction or point addition to its overall score for a particular preference will not receive any additional bid price reduction or points for further participation on a subcontracting level for that particular preference.

However, the prime contractor will receive a further proportional bid price reduction or point addition on a different preference for participation on a subcontracting level for that difference preference. For example, if a LBE prime contractor receives the four percent bid price reduction or the equivalent of four points on a 100-point scale, the LBE prime contractor does not receive a further price reduction or additional points if such contractor proposes subcontracting with an LBE. However, if this same LBE prime contractor proposes subcontracting with a DBE, the LBE prime contractor receives a further proportional bid price reduction or point addition for the DBE participation on the subcontracting level.

M.1.3 Preferences for Open Market Solicitations with LBE, DBE or RBO Subcontracting Set Aside

If the solicitation is an open market solicitation with a LBE, DBE or RBO subcontracting set-aside, the prime contractor will receive the LBE, DBE or RBO preferences only if it is a certified LBE, DBE or RBO. There shall be no preference awarded for subcontracting by the prime contractor with a LBE, DBE or RBO, even if the prime contractor proposes LBE, DBE or RBO subcontracting above the subcontracting levels required by the solicitation. However, the prime contractor shall be entitled to the full preference for businesses located in an enterprise zone if it is a business located in an enterprise zone or a proportional preference if the prime contractor subcontracts with a business located in an enterprise zone.

The maximum total preference under the Act for this procurement is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to a RFP.

M.1.4 Preferences for Certified Joint Ventures Including Local or Disadvantaged Businesses or Resident Business Ownerships

When an LBOC-certified joint venture includes a local business enterprise (LBE), disadvantaged business enterprise (DBE) or a resident business ownership (RBO), and the LBE, DBE or RBO owns and controls at least fifty-one (51%) of the venture, the joint venture will receive the preferences as if it were a certified LBE, DBE or RBO.

M.1.5 Preferences for Joint Ventures Including Businesses Located in an Enterprise Zone

When a joint venture includes a business located in an enterprise zone, and such business located in an enterprise zone owns and controls at least fifty-one percent (51%) of the venture, the joint venture will receive the preference as if it were a business located in an enterprise zone.

M.1.6 Vendor Submission for Preferences

Any vendor seeking to receive preferences on this solicitation must submit at the time of, and as part of its bid or proposal the following documentation, as applicable to the preference being sought:

- a. Evidence of the vendor's, subcontractor's, or joint venture partner's certification or self-certification as a LBE, DBE or RBO, to include either:
 - 1) A copy of all relevant letters of certification from the Local Business Opportunity Commission (LBOC); or
 - 2) A copy of any sworn notarized Self-Certification Forms prescribed by the LBOC, along with an acknowledgement letter issued by the Director of the LBOC. Businesses with principal offices located outside of the District of Columbia must first be certified as LBEs before qualifying for self-certification.
- b. Evidence that the vendor or any subcontractor is located in an enterprise zone.

In order for a bidder or offeror to receive allowable preferences under this solicitation, the bidder or offeror must include the relevant information as described in subparagraphs (a) and (b) of this clause, as part of its bid or proposal.

Attachment J.10 contains the Self-Certification Package. In order to receive any preferences under this solicitation, any vendor seeking self-certification must complete and submit the forms to:

Office of Local Business Development
ATTN: LSDBE Certification Program
441 –4th Street, NW, Suite 970-N
Washington, DC 20001

All vendors are encouraged to contact the Local, Small and Disadvantaged Business Enterprises Certification Program at (202) 727-3900 if additional information is required on certification procedures and requirements.

M.1.7 Penalties for Misrepresentation

Any material misrepresentation on the sworn notarized self-certification form could result in termination of the contract, the contractor's liability for civil and criminal action in accordance with the Act, D.C. Law 12-268, and other District laws, including debarment.

M.1.8 Local, Small, and Disadvantaged Business Enterprise Subcontracting

- a. When a prime contractor is certified by the Local Business Opportunity Commission (LBOC) as a local, small or disadvantaged business or a resident business ownership, the prime contractor shall perform at least fifty percent (50%) of the contracting effort, excluding the cost of materials, goods, and **supplies** with its own organization and resources, and if it subcontracts, fifty percent (50%) of the subcontracting effort, excluding the cost of materials, goods, and supplies shall be with certified local, small, and disadvantaged business enterprises and resident business ownerships, unless a waiver is granted by the contracting officer, with the prior approval and consent of the Director of the LBOC under the provisions of 27 DCMR 805, 39 DCR 5578-5580 (July 24, 1992).
- b. By submitting a signed bid or proposal, the prime contractor certifies that it will comply with the requirements of paragraph (a) of this clause.

M.2 CLAUSE APPLICABLE ONLY TO OPEN MARKET SOLICITATIONS WITH LBE, DBE, OR RBO SUBCONTRACTING SET-ASIDE

Under the provisions of 27 DCMR 801.2(b), 39 DCR 5571 (July 24, 1992), _____ of the total dollar value of this contract has been set-aside for performance through subcontracting with local business enterprises, disadvantaged business enterprises, or resident business ownerships. Any prime contractor responding to this solicitation shall submit with its bid or proposal a notarized statement detailing its subcontracting plan (See Clause M.3.1), Subcontracting Plan and Clause M.3.2, Liquidated Damages). Once the plan is approved by the contracting officer, changes will only occur with the prior written approval of the contracting officer.

M.3 CLAUSES APPLICABLE TO OPEN MARKET SOLICITATIONS IN WHICH THERE WILL BE LBE, DBE, OR RBO SUBCONTRACTING OR SUBCONTRACTING WITH A BUSINESS LOCATED IN AN ENTERPRISE ZONE

M.3.1 Subcontracting Plan

A notarized statement detailing a subcontracting plan shall be submitted, as part of the bid or proposal, by any prime Contractor seeking a preference on the basis of proposed subcontracting a with local business enterprise (LBE), disadvantaged business enterprise (DBE), resident business ownership (RBO) or business located in an enterprise zone; and by any prime contractor responding to a solicitation in which there is a LBE, DBE, or RBO subcontracting set-aside. Each subcontracting plan shall include the following:

- (a) A description of the goods and services to be provided by the LBE, DBE, or RBO or business located in an enterprise zone;
- (b) If the prime contractor is seeking a preference on the basis of proposed subcontracting with a LBE, DBE, RBO, or a business located in an enterprise zone, a statement of the dollar amount, by type of business enterprise, of the bid or proposal that is designated by the prime contractor for a LBE, DBE, RBO, or business located in an enterprise zone;
- (c) If the solicitation contains a LBE, DBE, or RBO subcontracting set-aside, a statement of the dollar value, by type of business enterprise, of the bid or proposal that pertains to the subcontracts to be performed by the LBEs, DBEs, or RBOs;
- (d) The names and addresses of all proposed subcontractors who are LBEs, DBEs, RBOs or businesses located in an enterprise zone;
- (e) The name of the individual employed by the prime contractor who will administer the

subcontracting plan, and a description of the duties of the individual;

- (f) A description of the efforts the prime contractor will make to ensure that LBEs, DBEs, RBOs, or businesses located in an enterprise zone will have an equitable opportunity to compete for subcontracts;
- (g) In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- (h) Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;
- (i) List the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and include assurances that the prime contractor will make such records available for review upon the District's request; and
- (j) A description of the prime Contractor's recent effort to locate LBEs, DBEs, RBOs, and businesses located in an enterprise zone and to award subcontracts to them.

M.3.2 Liquidated Damages

- a. If during the performance of this contract, the contractor fails to comply with the subcontracting plan submitted in accordance with the requirements of this contract and 27 DCMR 804.9, 39 DCR 5578 (July 24, 1992), and as approved by the contracting officer, the contractor shall pay to the District liquidated damages in the sum of twenty five dollars (\$25.00), for each calendar day the contractor fails to comply with the subcontracting plan, unless the contracting officer determines that the contractor made good faith efforts to comply with the subcontracting plan in accordance with subparagraph (b) below.
- b. Prior to assessing any liquidated damages under this provision, the contracting officer shall issue a written notice informing the contractor that it is not in compliance with the subcontracting plan and set forth the areas of non-compliance. The written notice from the contracting officer shall provide the contractor with ten (10) days from the date of receipt of the written notice to correct any areas of non-compliance or to demonstrate that the contractor has used good faith efforts to comply with the subcontracting plan. If the contractor fails to correct any areas of non-compliance or demonstrate good faith efforts within the

ten-day period, the contracting officer shall assess liquidated damages beginning on the first day after the end of the ten-day period.

- c. If failure to comply with the subcontracting plan is such that the Contracting Officer determines it to be a material breach of the Contract and terminates the Contract under the Default Clause of the Standard Contract Provisions, the Contractor shall be liable for aforementioned liquidated damages accruing until the time the District may reasonably obtain similar goods or services.