

SOLICITATION, OFFER, AND AWARD			1. Caption			Page of Pages				
			Solid Waste Hauling and Disposal Services			1	55			
2. Contract Number		3. Solicitation Number		4. Type of Solicitation		5. Date Issued		6. Type of Market		
		DCKT-2010-B-0136		<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		3/5/10		<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 14 th Street, NW, 6 th Floor Washington, DC 20009					Department of Public Works Solid Waste Management Administration Solid Waste Disposal Division 3200 Benning Road, N.E., Washington, D.C. 20019					
NOTE: In sealed bid solicitations "offer" and offeror" means "bid" and "bidder"										
SOLICITATION										
9. Sealed offers in original and <u> 3 </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 bid counter located at <u> 2000 14th Street, NW, 3rd Floor </u> until <u> 2:00 </u> p.m. <u> 3/19/10 </u> local time <u> </u> (Hour) <u> </u> (Date).										
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.										
10. For Information Contact		A. Name			B. Telephone			C. E-mail Address		
		Adele Smith			(Area Code) 202		(Number) 671-2389		(Ext) Adele.smith@dc.gov	
11. Table of Contents										
(X)	Section	Description	Page No.	(X)	Section	Description	Page No.			
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES						
X	A	Solicitation/Contract Form	1	X	I	Contract Clauses	28			
X	B	Supplies or Services and Price/Cost	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS						
X	C	Specifications/Work Statement	7	X	J	List of Attachments	40			
x	D	Packaging and Marking	11	PART IV - REPRESENTATIONS AND INSTRUCTIONS						
X	E	Inspection and Acceptance	12			Representations, certifications and other statements of offerors				
X	F	Deliveries or Performance	13	X	K		41			
X	G	Contract Administration Data	14	X	L	Instructions, conditions & notices to offerors	45			
X	H	Special Contract Requirements	19	X	M	Evaluation factors for award	51			
OFFER										
12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u> 210 </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		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)										
19. Accepted as to Items Numbered			20. Amount			21. Accounting and Appropriation				
22. Name of Contracting Officer (Type or Print)				23. Signature of Contracting Officer (District of Columbia)			24. Award Date			

SECTION B - SUPPLIES OR SERVICE AND PRICE/COST

- B.1** The District of Columbia's Office of Contracting and Procurement, on behalf of the Department of Public Works ("the District") is seeking a contractor to provide hauling and disposal of municipal solid waste inclusive of white goods and tires to licensed disposal facilities.
- B.2** The District agrees that it will purchase its requirements for the 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 their obligation to fill all such orders.
- B.2.1** Performance shall be made only as authorized in accordance with the Ordering Clause in section G.10. The District may issue orders requiring performance at multiple locations. If the District urgently requires service before the earliest date that services may be specified under this contract, and if the contractor will not accept an order providing for the accelerated service, the District may acquire the urgently required services from another source.
- B.2.2** 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.

B.3 PRICE SCHEDULE

The Unit Prices and Estimated Prices that are submitted by the bidder in response to the Invitation for Bids shall include the total costs associated with transporting solid waste from the District's transfer stations to the final disposal facilities and, to the extent required herein, disposing of the waste at those facilities. The Total Estimated Prices for the Base Period and Option Years shall be Not to Exceed (NTE) Prices which the District may, at its election, increase to meet its requirements for hauling and disposal of the District's municipal solid waste.

For the purpose of pricing Hauling Services, the bidder shall assume the per gallon cost of ultra low sulfur No. 2 diesel fuel (FUEL) is the price on the Monday prior to the submission of Bids as reported by the U.S. Department of Energy, Energy Information Administration for the Central Atlantic (PADD1B) in cents per gallon including taxes. The price of Hauling Services, CLIN Nos. 0001, 0002A, 0003A, 0004 and 0005, for the base period and option years, shall be adjusted in any week when the price of FUEL is more or less than this per gallon price. The per ton adjustment will be based upon the formula listed in I.14.

B.3.1 BASE PERIOD (3 years from date of award)

Contract Line Item No. (CLIN)	Item Description	Price Per Ton	Estimated Tons Per Year	Estimated Price
0001	Haul combustible solid waste (inclusive of tires) to the Fairfax County Energy Resource Recovery Facility (Fairfax)	\$_____	up to 200,000 tons	\$_____
0002A	Haul non-combustible solid waste to a licensed disposal facility	\$_____	24,000 tons	\$_____
0002B	Dispose of non-combustible solid waste at a licensed disposal facility	\$_____	24,000 tons	\$_____
0003A	Haul white goods to a licensed disposal facility	\$_____	1,500 tons	\$_____
0003B	Dispose of white goods (with all ChloroFluoroCarbons (CFCs) evacuated) at a licensed metals recycling facility	\$_____	1,500 tons	\$_____
0004	Haul leaves to a District designated composting facility	\$_____	8,000 tons	\$_____
TOTAL ESTIMATED PRICE PER YEAR				\$
TOTAL ESTIMATED PRICE FOR THREE YEARS				\$

B.3.2 OPTION YEAR 1

Contract Line Item No. (CLIN)	Item Description	Price Per Ton	Estimated Tons Per Year	Estimated Price
1001	Haul combustible solid waste (inclusive of tires) to the Fairfax County Energy Resource Recovery Facility (Fairfax)	\$_____	up to 200,000 tons	\$_____
1002A	Haul non-combustible solid waste to a licensed disposal facility	\$_____	24,000 tons	\$_____
1002B	Dispose of non-combustible solid waste at a licensed disposal facility	\$_____	24,000 tons	\$_____
1003A	Haul white goods to a licensed disposal facility	\$_____	1,500 tons	\$_____
1003B	Dispose of white goods (with all ChloroFluoroCarbons (CFCs) evacuated) at a licensed metals recycling facility	\$_____	1,500 tons	\$_____
1004	Haul leaves to a District designated composting facility	\$_____	8,000 tons	\$_____
TOTAL ESTIMATED PRICE – OPTION YEAR 1				\$_____

B.3.3 OPTION YEAR 2

Contract Line Item No. (CLIN)	Item Description	Price Per Ton	Estimated Tons Per Year	Estimated Price
2001	Haul combustible solid waste (inclusive of tires) to the Fairfax County Energy Resource Recovery Facility (Fairfax)	\$_____	up to 200,000 tons	\$_____
2002A	Haul non-combustible solid waste to a licensed disposal facility	\$_____	24,000 tons	\$_____
2002B	Dispose of non-combustible solid waste at a licensed disposal facility	\$_____	24,000 tons	\$_____
2003A	Haul white goods to a licensed disposal facility	\$_____	1,500 tons	\$_____
2003B	Dispose of white goods (with all ChloroFluoroCarbons (CFCs) evacuated) at a licensed metals recycling facility	\$_____	1,500 tons	\$_____
2004	Haul leaves to a District designated composting facility	\$_____	8,000 tons	\$_____
TOTAL ESTIMATED PRICE – OPTION YEAR 2				\$_____

B.3.4 ADDITIONAL HAULING SERVICE

If and to the extent events or circumstances beyond Fairfax’s reasonable control, excluding routine emergency and planned maintenance, cause Fairfax to be unable to accept any of the District's Acceptable Waste, Fairfax may redirect District Acceptable Waste to an alternate disposal site (expected to be the King George, Virginia site) without notice. In those instances, the contractor shall haul the waste to the alternate location. The Contractor will charge the District a fixed unit price per ton per mile for hauling

services. The unit price for this additional service is based on the difference in mileage between the Fairfax and King George locations. The estimated number of miles round trip is 96 miles. Section B.3.4 shall apply to the Base Period and all Option Years, as stated below. In its invoices for payment, the contractor must list separately from CLIN 0001, and corresponding Option Year CLINs, all additional hauling services for the invoice period.

Contract Line Item No. (CLIN)	Item Description	Estimated number of miles round trip	Unit Price per mile	Total cost per run
0005 (Base Period)	Haul combustible solid waste to the King George landfill located at 10376 Bullock Drive, King George, VA 22485	96 miles (48 miles one way)	\$_____	
1005 (Option Year 1)	Haul combustible solid waste to the King George landfill located at 10376 Bullock Drive, King George, VA 22485	96 miles (48 miles one way)	\$_____	
2005 (Option Year 2)	Haul combustible solid waste to the King George landfill located at 10376 Bullock Drive, King George, VA 22485	96 miles (48 miles one way)	\$_____	

B.4 If a bidder intends to subcontract under this solicitation, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section M.1.1. The prime contractor responding to this solicitation shall be required to submit with its bid, a notarized statement detailing its subcontracting plan. Bids responding to this IFB shall be deemed nonresponsive and shall be rejected if the bidder intends to subcontract in accordance with the provisions of section M.1.1, but fails to submit a subcontracting plan with its bid.

SECTION C: DESCRIPTION/SPECIFICATIONS/ WORK STATEMENT

C.1 SCOPE:

The contractor shall provide all management, personnel, materials and equipment to haul combustible and non-combustible (including tires and white goods) solid waste from the Fort Totten solid waste transfer station, 4900 Bates Road, N.E., Washington, D.C., and the Benning Road solid waste transfer station, 3200 Benning Road, N.E., Washington, D.C., for disposal at a licensed solid waste disposal facility permitted to receive municipal solid waste. Leaves shall be hauled to a composting facility less than 125 miles (round trip) from Washington, D.C. as directed by the District.

C.1.1 Definitions

- C.1.1.1 "Combustible solid waste" shall be defined as paper, plastic, metal, glass, yard waste, food waste, tires and other municipal solid waste that can be burned.
- C.1.1.2 "Non-combustible municipal solid waste" shall include, but not be limited to, dirt, grit, stones and litter collected by mechanical street sweepers, bulky wastes and construction and demolition material.
- C.1.1.3 "Disposal agreement" shall mean a written contract that allows the contractor to dispose of combustible and non-combustible (including white goods and tires) municipal solid waste at a licensed solid waste disposal facility.
- C.1.1.4 "Final disposal" means disposal at a sanitary landfill, waste-to-energy facility, metal recycler, or composting site.
- C.1.1.5 "Municipal solid waste disposal facility legally permitted to receive municipal solid waste" shall mean a sanitary landfill, metal recycler, or a waste-to-energy facility that has received a permit from the state in which it is located to receive and dispose of solid waste. If the disposal facility identified by the contractor is a landfill, the solid waste disposal facility must deposit the District's solid waste in a landfill cell with a liner system in compliance with the design criteria required by the Federal Resource Conservation and Recovery Act, Subtitle D regulations, section 40 CFR Part 258.40.

C.1.2 Applicable Documents

In performing services under this contract, the contractor shall adhere to the District's licensing requirements and regulations related to solid waste disposal, specifically 21 DCMR, Chapter 709, 710, 711, 712.

C.2 BACKGROUND

C.2.1 The District will direct approximately 15,000 tons of combustible waste per month (up to 200,000 tons annually) to Fairfax.

C.2.2 The District will direct leaf tonnage to a composting facility as follows:

November	2,000
December	5,000
January	1,000

C.2.3 The information provided in sections C.2.2 and C.2.3 is for informational purposes only and shall not be construed as a representation that the estimated quantities will be actually directed as shown or that the conditions will be stable.

C.2.4 The Fort Totten and Benning Road solid waste transfer stations each have three transfer 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.

C.3 REQUIREMENTS

C.3.1 The contractor shall haul solid waste and yard waste from the District's transfer stations for disposal at a licensed solid waste disposal facility permitted to receive municipal solid waste. The materials hauled under the terms of this contract do not include source separated paper products or rigid containers designated for recycling. Tires with or without rims may be co-mingled with combustible and non-combustible waste.

C.3.1.1 Access to Stations

- a) The contractor's transfer trailer vehicles shall enter and exit the Fort Totten solid waste 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.
- b) The contractor's transfer trailer vehicles shall enter and exit the Benning Road solid waste transfer station only by way of Kenilworth Avenue (DC 295) and Benning Road without prior written approval of the COTR.

C.3.2 District employees shall load the solid waste at the Benning Road and Fort Totten solid waste transfer stations onto the contractor's vehicles for delivery to the Fairfax disposal facility unless otherwise directed by the COTR.

C.3.2.1 The contractor's transfer trailer vehicles shall access the Fairfax disposal facility via U.S. Route 1 and Furnace Road. Lorton Road, Route 624, shall not be used without prior written approval of the COTR.

C.3.3 The contractor shall ensure that all ChloroFluoroCarbons (CFCs) are evacuated in accordance with the provisions of all applicable state and federal regulations prior to disposal or recycling.

C.3.4 The contractor shall use enclosed or covered transfer trailers to eliminate spillage of waste and blowing of debris from the trailers once the trailers are filled.

C.3.5 The contractor shall be responsible for compliance with all vehicle weight restrictions and vehicle and driver licensing requirements of all relevant jurisdictions.

C.3.6 The contractor shall submit a monthly management summary report of activity with any invoice/s submitted. As part of the monthly management summary report, the contractor shall submit information, to include at minimum, date, tons, materials, and location, on the amount of materials diverted for recycling. The District also reserves the right to inspect scale tickets from the final disposal sites. .

C.3.7 It is the intent of the District that the contractor removes from the Transfer Stations all combustible waste daily. The District will monitor the volume of material daily and communicate to the contractor the District's daily transfer needs. The contractor shall ensure that adequate personnel and equipment are available during the hours listed below to remove all delivered combustible waste daily; non-combustible waste within two (2) working days; and all metals including white goods within five (5) working days. Compliance with this schedule will be measured on a tonnage basis of deliveries to the transfer stations.

C.3.7.1 Both the Fort Totten and Benning Road transfer stations will be open to load between 4:30 AM and 4:30 PM Monday through Friday except government holidays. On Saturday, one station will operate on a weekday schedule and the second station will load between 4:30 AM and 11:30 AM.

C.3.7.2 The contractor shall not be required to haul and dispose solid waste brought to the Fort Totten and Benning Road transfer stations on Sunday.

C.3.7.3 District solid waste collection crews do not work on government holidays. The crews work the Saturday after a government holiday to ensure service to all eligible District residents. The Contractor shall be required to haul and dispose of solid waste brought to the Benning Road and Fort Totten solid waste transfer stations on each Saturday which follows a government holiday. The applicable holidays are:

- | | |
|----------------------------------|------------------|
| New Year's Day | Labor Day |
| Martin Luther King, Jr. Birthday | Columbus Day |
| President's Day | Veteran's Day |
| Emancipation Day | Thanksgiving Day |

Memorial Day
Independence Day

Christmas Day
Inauguration Day

C.3.7.4 Any deviation from the above schedules shall be at the direction of the COTR.

C.3.7.5 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 Saturday hours on Memorial Day, Independence Day and Labor Day. On all other government holidays, at least one station shall operate on a weekday schedule.

SECTION D: PACKAGING AND MARKING

N/A

SECTION E: INSPECTION AND ACCEPTANCE

- E.1** The inspection and acceptance requirements for the resultant contract shall be governed by clause number six (6), Inspection of Services, 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** Prior to award, the COTR shall determine whether the contractor'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 COTR shall coordinate the inspection of all vehicles to be used in the performance of the contract with the contractor and the District's Fleet Services Division. The District shall conduct all such inspections prior to contract award. Originals of the vehicles 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.
- E.4** The contractor's equipment and any District equipment modified by the contractor shall be subject to inspection by the COTR within five (5) days from the date of a written notice. The equipment shall be cleaned by the contractor and made available to the COTR for inspection. Deficiencies found during the inspection shall be corrected to the satisfaction of the COTR within five (5) days at no cost to the District.

SECTION F: DELIVERIES OR PERFORMANCE

F.1 TERM OF CONTRACT

The term of the contract shall be for a period of three (3) years from date of award specified on page one (1) of the contract.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract for a period of two (2) – one year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

F.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in the contract.

F.2.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

F.3 DELIVERABLES

CLIN	Deliverable	Quantity	Format/Method of Delivery	Due Date	To Whom
0001-0005	Management Summary Report (C.3.6)	1	Electronic/Hard copy	Monthly	COTR

F.3.1 The Contractor shall submit to the District, as a deliverable, the report described in section H.3.5 of this contract that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor may not be paid.

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, at the prices stipulated in this contract, for supplies delivered and accepted or 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 or as otherwise specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer (CFO) with concurrent copies to the Contracting Officer's Technical Representative (COTR) specified in Section G.9 below. The address of the CFO is:

Name: Associate Chief Financial Officer (CFO)
Address: 2000, 14th Street, N.W., 6th Floor
Washington, D.C. 20009
Telephone: (202) 671-2300

G.2.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

G.2.2.1 Contractor's name, Federal tax ID and invoice date (Contractors shall date invoices on the date of mailing or transmittal);

G.2.2.2 Contract number and invoice number;

G.2.2.3 Description, price, quantity and the date(s) that the supplies or services were delivered 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;

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.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

G.3.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a 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 Contracting Officer's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

G.4 PAYMENT

The District will pay the amount due the contractor under the contract after:

G.4.1 Completion and acceptance of work during the month for which the invoice is submitted; and

G.4.2 Presentation of a properly executed invoice. The District will reconcile the amount of waste listed on the invoice with the District's weight tickets.

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 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.6.3 Flow Down Requirement For Subcontracts

The Contractor shall include in each subcontract a provision that requires the subcontractor to include in its contracts with any lower-tier subcontractors or suppliers the payment and interest clauses required under paragraphs (1) and (2) of DC Official Code § 2-221.02 (d).

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
Contracting Officer
Office of Contracting and Procurement
2000 14th Street, N.W., 6th Floor
Washington, D.C. 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 of contract performance, 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:

**Peter Mitchell
Department of Public Works
Solid Waste Management Administration
Solid Waste Disposal Division
3200 Benning Road, N.E.,
Washington, D.C. 20019
(202) 727-5907**

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

G.10 ORDERING CLAUSE

- a) During the term of the contract, the Contracting Officer will issue, to contractor, purchase orders that provide funding for services to be ordered by the COTR on a daily basis in accordance with C.3.7.
- b) All purchase orders are subject to the terms and conditions of this contract. In the event of a conflict between a purchase order and this contract, the contract shall control.
- c) If mailed, a purchase 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 releasability 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, § 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, (Section J.2.4) 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;
- (3) Number of new job openings created;
- (4) Number of job openings listed with DOES;
- (5) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- (6) 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.4.1.1 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.4.2 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 apprentices and trainees 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 DISTRICT RESPONSIBILITIES

H.8.1 The District will be responsible for entering into a disposal agreement for **CLINs 0001, 1001, and 2001** with the Fairfax County Energy Resource Recovery Facility (Fairfax) and payment of the disposal fees to Fairfax.

H.8.2 The District will be responsible for entering into a disposal agreement for **CLINs 0004, 1004, and 2004** with a District designated composting facility and for payment of the composting fees to the facility.

H.9 CONTRACTOR RESPONSIBILITIES

H.9.1 The contractor shall enter into disposal agreements with licensed disposal facilities for performance of CLINs 0002B and 0003B and corresponding CLINs for the Option Years as follows.

H.9.1.1 The contractor, as directed by the Contracting Officer's Technical Representative (COTR), shall haul all combustible municipal solid waste to Fairfax unless otherwise directed by the COTR or Fairfax (Refer to section B.4). The contractor shall haul and dispose of non-combustible

municipal solid waste (including tires) at a licensed disposal facility. The contractor shall haul to and dispose of white goods, with all CFCs evacuated, at a licensed metals recycling facility. The contractor shall haul leaves and yard waste to a District designated composting facility.

H.9.1.2 The contractor shall be responsible for entering into a disposal agreement with a solid waste disposal facility (ies) legally permitted to receive and dispose of non-combustible municipal solid waste (inclusive of tires and construction and demolition debris) collected from the Fort Totten and Benning Road transfer stations, and payment of all disposal fees. The disposal agreements should specify the disposal facility's capability to accept the tonnage as specified in the schedule and must be for a period of at least three (3) years with the possibility to extend the agreement to up to five (5) years. If the disposal facility identified by the contractor is a landfill, the solid waste disposal facility must deposit the District's solid waste in a landfill cell with a liner in compliance with the design criteria required by the Federal Resource Conservation and Recovery Act, Subtitle D regulations, section 40 CFR Part 258.40.

H.9.1.3 The contractor shall be responsible for entering into a disposal agreement with a metal recycling facility(ies) legally permitted to receive and process white goods collected from the District's municipal transfer facilities and payment of all disposal fees. The disposal agreement should specify the recycling facility's capability to accept the tonnage as specified in the schedule.

H.9.1.4 The disposal agreements must be provided to the Contracting Officer (CO) for review and approval prior to award of this contract.

H.9.1.5 Any amendments, modifications or changes to the disposal agreements after contract award shall be submitted to the CO for review and approval prior to becoming effective.

H.9.2 The contractor shall provide the following equipment for hauling and disposal:

H.9.2.1 Combustible Solid Waste:

- a) All transfer trailers shall be top loading to be loaded directly from the tipping floor at both the Fort Totten and Benning Road transfer stations.
- b) Trailers directed to Fairfax shall be self-unloading.
- c) The contractor shall provide sufficient trailers and personnel to allow for the timely and orderly loading of combustible solid waste by the District. A 10% increase in available onsite trailers and yard tractors will be required during the peak months between May 1 and October 31, between the hours of 9:00 am and 12 noon Monday through Friday. The contractor should coordinate operations with the COTR and transfer station managers and operation foremen on at least a daily basis.

H.9.2.2 Non-Combustible Solid Waste and White Goods

- a) Top loading solid waste transfer vehicles suitable to receive 24,000 tons per year of non-combustible municipal solid waste and 1,500 tons of white goods from the lower lot at the Fort Totten transfer station.

H.9.2.3 Yard Waste Composting

- a) Top loading solid waste transfer vehicles suitable to receive approximately 8,000 tons per year of leaves from the Benning Road and Fort Totten transfer stations.
- b) Trailers directed to the District designated composting facility must be self-unloading.

H.10 LIQUIDATED DAMAGES

If the contractor fails to perform the services within the time specified in this contract, the contractor shall pay to the District as fixed and agreed Liquidated Damages as shown in Sections **H.10.1** through **H.10.3** below:

H.10.1 LIQUIDATED DAMAGES FOR FAILURE TO REMOVE AND DISPOSE OF COMBUSTIBLE SOLID WASTE BY THE END OF EACH WORK DAY:

Failure of the contractor to remove all combustible solid waste from the Fort Totten Transfer Station by 7:00 p.m. Monday through Friday and by 5:00 p.m. on Saturday; and from the Benning Road Transfer Station by 4:00 p.m. Monday through Friday, which results in the uncontainerized, overnight storage of combustible solid waste at either transfer station, shall result in the assessment of liquidated damages in the amount of \$2,000 per day, provided that the failure is not directly attributable to the District.

H.10.2 LIQUIDATED DAMAGES FOR FAILURE TO REMOVE AND DISPOSE OF NON-COMBUSTIBLE SOLID WASTE BY THE END OF EACH WORK DAY:

Failure of the contractor to remove all non-combustible solid waste from the Fort Totten solid waste transfer station that causes the overnight storage of noncombustible solid waste for more than five (5) working days from the date the waste is received at the transfer station shall result in the assessment of liquidated damages in the amount of \$1,000 per day, provided that the failure is not directly attributable to the District.

H.10.3 LIQUIDATED DAMAGES FOR FAILURE TO PREVENT

SPILLS IN LOADING AREA AND ON ROADWAYS:

The contractor shall be responsible for maintaining solid waste loading areas at Fort Totten and Benning Road Transfer Stations that are free of solid waste spillage. In addition, the contractor shall use enclosed or covered transfer trailers to eliminate spillage and blowing debris when solid waste is being transported to a final disposal site. For each failure to immediately abate solid waste spillage at either of the two loading sites and for each failure to control the blowing or spillage of solid waste from transfer trailers by using enclosed or covered containers, contractor shall be subject to the assessment of liquidated damages in the amount of \$500 per day.

H.11 DEPARTMENT OF LABOR WAGE DETERMINATION

The contractor shall be bound by the Wage Determination No.2005-2103, Revision No.8 dated May 26, 2009, 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.12 WAY TO WORK AMENDMENT ACT OF 2006

H.12.1 Except as described in H.12. 8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 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.12.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage rate.

H.12.3 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.12.4 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. If the living wage is adjusted during the term of the contract, the Contractor shall be bound by the applicable wage rate as of the effective date of the adjustment, and the Contractor may be entitled to an equitable adjustment.

H.12.5 The Contractor shall provide a copy of the Fact Sheet attached as J.1.2 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.1.3 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.12.6 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.12.7 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.12.8 The requirements of the Living Wage Act of 2006 do not apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (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;
- (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
- (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;
- (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;
- (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;
- (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;
- (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));
- (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

(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.12.9 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.13 PERFORMANCE BOND

H.13.1 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.

H.13.2 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.

H.13.3 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.

H.13.4 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.

H.13.4.1 Any such additions or increases in the posted performance security shall be made within 30 days of execution of the contract modification.

H.13.5 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.

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March 2007 (“SCP”), are incorporated as part of the contract resulting from this solicitation. To obtain a copy of the SCP go to www.ocp.dc.gov, click on Vendor Portal, then click on “Solicitation Attachments”, then Standard Contract Provisions(March 2007).

I.2 CONTRACTS THAT CROSS FISCAL YEARS

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

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by the Contractor relating to any employee or customer of the District will 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 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 will have the right to review and approve prior to its execution by 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.8 INSURANCE

A. **GENERAL REQUIREMENTS.** The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the Contracting Officer giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the Contracting Officer. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the Contracting Officer shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the Contracting Officer with ten (10) days prior written notice in the event of non-payment of premium.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage

shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation. The Contractor shall maintain Completed Operations coverage for five (5) years following final acceptance of the work performed under this contract.

2. 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 this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory 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: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

4. Umbrella or Excess Liability Insurance. The Contractor shall provide umbrella or excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$2,000,000 per occurrence, including the District of Columbia as additional insured.

- B. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for five (5) years following final acceptance of the work performed under this contract.
- C. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE, WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- D. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- E. 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 contract price.

- F. NOTIFICATION. The Contractor shall immediately provide the Contracting Officer with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the Contracting Officer.
- G. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

Name of Contracting Officer
Address of Contracting Officer
Phone Number/E-mail Address

I.9 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 as Section J.2.2. An award cannot be made to any offeror who has not satisfied the equal employment requirements.

I.10 ORDER OF PRECEDENCE

Any inconsistency in this solicitation and resulting contract shall be resolved by giving precedence in the following order: the Supplies or Services and Price/Cost Section (Section B), Specifications/Work Statement (Section C), the Special Contract Requirements (Section H), the Contract Clauses (Section I), Deliveries or Performance (Section F), Inspection and Acceptance (Section E), Contract Administration Data (Section G), the SCP and Packaging and Marking (Section D).

I.11 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the Contracting Officer.

I.12 CANCELLATION CEILING:

In the event of cancellation of the contract because of nonappropriation for any subsequent fiscal years or any option years, 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.13 MULTI-YEAR CONTRACT TERM:

This is a 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 office 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 cancelled 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.14 ECONOMIC PRICE ADJUSTMENT (For Hauling Cost Only)

The price of Hauling Services, **CLIN Nos. 0001, 0002A, 0003A, 0004 and 0005** shall be adjusted in any work week (Monday – Saturday) when the price of FUEL is more or less than the per gallon price identified in the Fuel-Adjustment Formula. The per ton adjustment will be based upon the following Formula:

FUEL ADJUSTMENT FORMULA:

- Sum the Round trip miles (a) between Fort Totten and the Disposal Site and (b) between Benning Road and the Disposal Site and divide the sum by two (2) to get the Round Trip Miles.
- Divide the Round Trip Miles by Miles Per Gallon to get the number of Gallons Per Load.
- Divide Gallons Per Load by the Tons Per Load to get Gallons Per Ton.
- Multiply the Gallons Per Ton by 1.1 to get the Per Gallon Cost Adjustment Factor with an allowance for overhead costs.
- Take the price for FUEL from the U.S. Department of Energy, Energy Information Administration for the Central Atlantic (PADD1B) in cents per gallon including taxes for the week and subtract the FUEL price on the Monday prior to the submission of Bids to get the Change in Fuel Price. The weekly fuel price can be located at:
http://tonto.eia.doe.gov/oog/info/wohdp/diesel_ULSD.asp
- Multiply the Change in Fuel Price by the Per Gallon Cost Adjustment Factor and round to the nearest cent to get the Weekly Per Ton Adjustment.
- The Weekly Per Ton Adjustment is added to the CLIN Unit Price Per Ton to get the Price for the week.

I.14.1 EXAMPLE 1 (for illustrative purposes only)

ASSUMPTIONS:

- Miles Per Gallon = 4.5
- Tons Per Load = 22
- Overhead Allowance = 10%
- The Distance from Fort Totten to Land fill X is 70 miles and Benning Road is 74 miles.
- The FUEL price on the Monday before the submission of Bids was \$4.00 per gallon.
- The FUEL price on the Monday of Week One was \$4.25; Week Two was \$4.50; Week Three was \$4.00; and Week Four was \$3.75.
- Bid Hauling Unit Price by Contractor was \$25 per Ton.

CALCULATION:

Round Trip Miles = 72 miles $((70+74) / 2 = 72)$

Gallons Per Load = 16.0

Gallons Per Ton = 0.7272

Cost Adjustment Factor = 0.7999

$72 \text{ miles} / 4.5 \text{ miles per gallon} = 16 \text{ gallons} / 22 \text{ tons per load} = 0.7272$
gallons per ton * 1.1 = 0.7999 gallons per ton

Change in FUEL Price

Week One = \$0.25 $(\$4.25 - \$4.00 = \$0.25)$

Week Two = \$0.50

Week Three = \$0.00

Week Four = $-\$0.25$

Weekly Per Ton Adjustment

Week One: \$0.20 $(\$0.25 * 0.7999 = \$0.1999)$

Week Two: \$0.40

Week Three: \$0.00

Week Four: $-\$0.20$

Weekly Per Ton Adjusted Haul Price per ton

Week One: \$25.20 $(\$25.00 + \$0.20 = \$25.20)$

Week Two: \$25.40

Week Three: \$25.00

Week Four: \$24.80

I.14.2 EXAMPLE 2 (for illustrative purposes only):

ASSUMPTIONS:

- Miles Per Gallon = 5.25
- Tons Per Load = 24.5
- Overhead Allowance = 10%
- The Distance from Fort Totten to Land fill Y is 310 miles and Benning Road is 314 miles.
- The FUEL price on the Monday before the submission of Bids was \$4.00 per gallon. The FUEL price on the Monday of Week One was \$4.25; Week Two was \$4.50; Week Three was \$4.00; and Week Four was \$3.75.
- Bid Hauling Unit Price by Contractor was \$38 per Ton.

CALCULATION:

Round Trip Miles = 312 miles $((310+314) / 2 = 312)$

Gallons per Load = 59.4286

Gallons per Ton = 2.4257

Cost Adjustment Factor = 2.6682

$312 \text{ miles} / 5.25 \text{ miles per gallon} = 59.4286 \text{ gallons} / 24.5 \text{ tons per load} = 2.4257 \text{ gallons per ton} * 1.1 = 2.6682$

Change in FUEL Price

Week One = \$0.25 $(\$4.25 - \$4.00 = \$0.25)$

Week Two = \$0.50

Week Three = \$0.00

Week Four = $-\$0.25$

Weekly Per Ton Adjustment =

Week One: \$0.67 $(\$0.25 * 2.6682 = \$0.667)$

Week Two: \$1.33

Week Three: \$0.00

Week Four: $-\$0.67$

Weekly per Ton Adjusted Haul Price per ton

Week One: \$38.67 $(\$38.00 + \$0.67)$

Week Two: \$39.33

Week Three: \$38.00

Week Four: \$37.33

I.15 FIRST SOURCE EMPLOYMENT AGREEMENT

The contractor shall maintain compliance with the terms and conditions of the First Source Employment Agreement executed between the District of Columbia and the contractor throughout the entire duration of the contract, including option periods, if any.

I.16 CONTINUITY OF SERVICES

I.16.1 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. At least 30 days prior to the expiration date of the contract, the District will inform the Contractor in writing that the District has exercised its right to require services under this section I.16. To that end, the contractor agrees to:

I.16.1.1 Furnish phase-out, phase-in (transition) training; and

I.16.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.16.2 The Contractor shall, upon the Contracting Officer's written notice:

I.16.2.1 Furnish phase-in, phase-out services for up to 90 days after this contract expires and

I.16.2.2 Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval.

I.16.3 The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

I.16.4 The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

I.16.5 Only in accordance with a modification issued by the Contracting Officer, the Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

I.17 LICENSES, PERMITS AND REGISTRATION

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

I.18 PRE-AWARD APPROVAL

In accordance with D.C. Official Code §2-301.05(a), 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.

SECTION J: LIST OF ATTACHMENTS

J.1 ATTACHMENT

J.1.1 Wage Determination No. 2005-2103 Revision 8

J.1.2 Living Wage Fact Sheet

J.1.3 Living Wage Notice

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

J.2.1 LSDBE Certification Package

J.2.2 E.E.O. Information and Mayor's Order 85-85

J.2.3 Tax Certification Affidavit

J.2.4 First Source Employment Agreement

SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS

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 as Section J.2.3.

SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

L.1 METHOD OF AWARD

L.1.1 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.1.2 The District intends, but is not obligated, to award a single contract resulting from this solicitation to the responsive and responsible bidder who has the lowest evaluated bid for the base period and option years.

L.2 PREPARATION AND SUBMISSION OF BIDS

L.2.1 Bidders shall submit a signed original and 3 copies of its bid. 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-2010-B-0136."**

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.2.5 To aid the District in the determination of a bidder's responsibility (refer to section L.16.6), the bidder shall include with its bid a listing of vehicles and trailers to be used in the performance of this contract. The vehicles and trailers are subject to inspection by the COTR prior to the award of this contract as prescribed in section E.3.

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 BID SUBMISSION DATE AND TIME

Bids must be submitted no later than the date and time as specified in Section A.9 on solicitation page 1.

L.5 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.6 LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.6.1 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) day before the date specified for receipt of bids; or
- 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.6.2 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.6.3 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.6.4 Late Modifications

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

L.6.5 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.7 HAND DELIVERY OR MAILING OF BIDS

Bidders must deliver or mail their bids to the address in Section A.8 of the cover page.

L.8 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 bidder's risk. In event of a discrepancy between the unit price and the total price, the unit price shall govern.

L.9 QUESTIONS ABOUT THE SOLICITATION

If a prospective bidder has any questions relative to this solicitation, the prospective bidder shall submit the questions in writing to the Contracting Officer. The prospective bidder shall submit questions no later than 3 days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received less than 3 days before the date set for submission of bids. The District will furnish responses promptly to all other prospective bidders. An amendment to the solicitation will be issued, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to any other prospective bidders. Oral explanations or instructions given before the award of the contract will not be binding.

L.10 FAILURE TO SUBMIT BIDS

Recipients of this solicitation not responding with a bid should not return this solicitation. Instead, they should advise the Contracting Officer, James Roberts Office of Contracting and Procurement, 2000 14th Street, N.W., 6th Floor, Washington, D.C. 20009, telephone: (202) 671-2200, by letter or postcard

whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Contracting Officer, Office of Contracting and Procurement, 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 Contracting Officer, Office of Contracting and Procurement, that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.11 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 bids shall be filed with the Board prior to bid opening or the time set for receipt of initial bids. In procurements in which bids 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 bids following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting Officer.

L.12 SIGNING OF BIDS

L.12.1 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.12.2 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 partner 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. Bidders shall complete and sign all Representations, Certifications and Acknowledgments as appropriate. Failure to do so may result in a bid rejection.

L.13 ACKNOWLEDGMENT OF AMENDMENTS

The bidder shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A.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. Bidder's failure to acknowledge an amendment may result in rejection of the bid.

L.14 BIDS WITH OPTION YEARS

The bidder shall include option year prices in its price/cost bid. A bid may be determined to be unacceptable if it fails to include option year pricing.

L.15 LEGAL STATUS OF BIDDER

Each bid must provide the following information:

L.15.1 Name, address, telephone number and federal tax identification number of bidder;

L.15.2 A copy of each District of Columbia license, registration or certification that the bidder is required by law to obtain. This mandate also requires the bidder to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862 (2001), if the bidder is required by law to make such 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.15.3 If the bidder is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

L.16 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.16.1 Evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.

L.16.2 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.16.3** Evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them. Experience is defined as hauling and disposing of solid waste from a public sector transfer station with similar volume to that referenced in this solicitation for at least 12 consecutive months within the last seven years.
- L.16.4** Evidence of compliance with the applicable District licensing and tax laws and regulations.
- L.16.5** Evidence of a satisfactory performance record, record of integrity and business ethics.
- L.16.6** Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.16.7** Evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations
- L.16.8** If the prospective contractor fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or nonresponsibility 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.

SECTION M: EVALUATION FACTORS

M.1. Preferences for Certified Business Enterprises

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the District shall apply preferences in evaluating bids from businesses that are small, local, disadvantaged, resident-owned, longtime resident, or local with a principal office located in an enterprise zone of the District of Columbia.

M.1.1 Subcontracting Requirements

If the prime contractor subcontracts any portion of the work under this contract, the prime contractor shall meet the following subcontracting requirements:

- M.1.1.1** At least 35% of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises; or
- M.1.1.2** If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph M.1.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

M.1.2 Application of Preferences

For evaluation purposes, the allowable preferences under the Act for this procurement shall be applicable to prime contractors as follows:

- M.1.2.1** Any prime contractor that is a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD) will receive a three percent (3%) reduction in the bid price for a bid submitted by the SBE in response to this Invitation for Bids (IFB).
- M.1.2.2** Any prime contractor that is a resident-owned business (ROB) certified by DSLBD will receive a five percent (5%) reduction in the bid price for a bid submitted by the ROB in response to this IFB.

M.1.2.3 Any prime contractor that is a longtime resident business (LRB) certified by DSLBD will receive a ten percent (10%) reduction in the bid price for a bid submitted by the LRB in response to this IFB.

M.1.2.4 Any prime contractor that is a local business enterprise (LBE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the LBE in response to this IFB.

M.1.2.5 Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the DZE in response to this IFB.

M.1.2.6 Any prime contractor that is a disadvantaged business enterprise (DBE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the DBE in response to this IFB.

M.1.3 Maximum Preference Awarded

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act for this procurement is twelve per cent (12%) for bids submitted in response to this IFB. There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

M.1.4 Preferences for Certified Joint Ventures

When DSLBD certifies a joint venture, the certified joint venture will receive preferences as a prime contractor for categories in which the joint venture and the certified joint venture partner are certified, subject to the maximum preference limitation set forth in the preceding paragraph.

M.1.5 Vendor Submission for Preferences

M.1.5.1 Any vendor seeking to receive preferences on this solicitation must submit at the time of, and as part of its bid, the following documentation, as applicable to the preference being sought:

M.1.5.1.1 Evidence of the vendor's or joint venture's certification by DSLBD as an SBE, LBE, DBE, DZE, LRB or ROB, to include a copy of all relevant letters of certification from DSLBD; or

M.1.5.1.2 Evidence of the vendor's or joint venture's provisional certification by DSLBD as an SBE, LBE, DBE, DZE, LRB or ROB, to include a copy of the provisional certification from DSLBD.

M.1.5.2 Any vendor seeking certification or provisional certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development
ATTN: CBE Certification Program
441 Fourth Street, NW, Suite 970N
Washington DC 20001

M.1.5.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

M.1.6 Subcontracting Plan

If the prime contractor intends to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section M.1.1. The prime contractor responding to this solicitation which intends to subcontract shall be required to submit with its bid, a notarized statement detailing its subcontracting plan. Bids responding to this IFB shall be deemed nonresponsive and shall be rejected if the bidder intends to subcontract in accordance with the provisions of section M.1.1, but fails to submit a subcontracting plan with its bid. Once the plan is approved by the contracting officer, changes to the plan will only occur with the prior written approval of the contracting officer and the Director of DSLBD. Each subcontracting plan shall include the following:

- M.1.6.1** A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- M.1.6.2** A statement of the dollar value of the bid that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- M.1.6.3** The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- M.1.6.4** 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;
- M.1.6.5** A description of the efforts the prime contractor will make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises will have an equitable opportunity to compete for subcontracts;

- M.1.6.6** 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;
- M.1.6.7** 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;
- M.1.6.8** A list of 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 assurances that the prime contractor will make such records available for review upon the District's request; and
- M.1.6.9** A description of the prime contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises, and to award subcontracts to them.

M.1.7 Compliance Reports

By the 21st of every month following the execution of the contract, the prime contractor shall submit to the contracting officer and the Director of DSLBD a compliance report detailing the contractor's compliance, for the preceding month, with the subcontracting requirements of the contract. The monthly compliance report shall include the following information:

- M.1.7.1** The dollar amount of the contract or procurement;
- M.1.7.2** A brief description of the goods procured or the services contracted for;
- M.1.7.3** The name and address of the business enterprise from which the goods were procured or services contracted;
- M.1.7.4** Whether the subcontractors to the contract are currently certified business enterprises;
- M.1.7.5** The dollar percentage of the contract or procurement awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- M.1.7.6** A description of the activities the contractor engaged in, in order to achieve the subcontracting requirements set forth in section M.1.1; and
- M.1.7.7** A description of any changes to the activities the contractor intends to make by the next month to achieve the requirements set forth in section M.1.1.

M.1.8 Enforcement and Penalties for Breach of Subcontracting Plan

M.1.8.1 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 as approved by the contracting officer and the Director of DSLBD, and the contracting officer determines the contractor's failure to be a material breach of the contract, the contracting officer shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.

M.1.8.2 In addition, the willful breach by a contractor of a subcontracting plan for utilization of certified business enterprises in the performance of a contract, the failure to submit any required subcontracting plan monitoring or compliance report, or the deliberate submission of falsified data may be enforced by DSLBD through the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach, failure, or falsified submission.

M.2 EVALUATION OF OPTION YEARS

The District will evaluate bids for award purposes by evaluating the total price for all options as well as the base period. Evaluation of options shall not obligate the District to exercise them. The total District's requirements may change during the option years. Quantities to be awarded will be determined at the time each option is exercised.