

CA21-212

COUNCIL OF THE DISTRICT OF COLUMBIA

SUBMISSION OF CONTRACT ACTION

OVER ONE MILLION DOLLARS

SUBMITTED BY: OFFICE OF CONTRACTING AND PROCUREMENT
ON BEHALF OF THE DEPARTMENT OF PUBLIC WORKS

PROPOSED CONTRACT ACTION

CONTRACT PERIOD: 1/1/16 – 12/31/20

CONTRACTOR NAME: Covanta Fairfax, Inc.

CONTRACT NUMBER: CW34843

CONTRACT AMOUNT: \$35,661,880.00

TABLE OF CONTENTS

Contract No. CW34843
Caption: Waste-to-Energy Facility
Contractor: Covanta Fairfax, Inc.
Amount: \$35,661,880.00

OFFICIAL COUNCIL PACKAGE

- Memorandum to Robert Schildkraut Tab 1
- Council Contract Summary Tab 2
- Tax Verification Response DOES Tab 3
- Tax Verification Response OTR Tab 4
- Funding Certification from CFO Tab 5
- Transmittal Letter to Chairman of Council Tab 6
- Legal Sufficiency Memo Tab 7
- Multiyear Bill & Resolution Tab 8
- Contract Tab 9

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF CONTRACTING AND PROCUREMENT



MEMORANDUM

TO: Robert Schildkraut
Chief, Procurement Section
Office of the Attorney General

FROM: Nancy K. Hapeman
Interim Chief Procurement Officer
Office of Contracting and Procurement

DATE:

SUBJECT: Contractor: Covanta Fairfax, Inc.
Contract No.: CW34843
Caption: Waste-to-Energy Facility

The proposed multiyear contract with Covanta Fairfax, Inc. is hereby submitted to your office for legal sufficiency review prior to consideration by the Office of the Mayor and the City Council.

Thank you for your assistance. If you have any questions or require additional information, please contact Gena Johnson, Contracting Officer, at (202) 671-2205.



PROLAW 452002

Deirdre Noble for

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement



Pursuant to section 202(c) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(c)), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY

(A) The contract number, proposed contractor, contract amount, unit and method of compensation, contract term, and type of contract:

Contract Number: CW34843

Contractor: Covanta Fairfax, Inc.

Estimated Contract Amount: \$35,661,880.00

Unit and Method of Compensation: Fixed Unit Price per Ton

Term of Contract: 1/1/16 – 12/31/20

Type of Contract: Requirements

(B) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:

The Department of Public Works (DPW) has a continued need for delivery and disposal of the District's Municipal Solid Waste (MSW) at a Waste-to-Energy (WTE) Facility. MSW includes mixed combustible solid waste from residential and commercial sectors that are collected within the District and transported to the District's Fort Totten and Benning Road Transfer Stations. Mixed combustible MSW includes, but is not limited to the following items: household trash/garbage, paper, plastic, metal, glass, yard waste, food waste, tires, and other materials that can be burned.

The Contractor will receive and accept the District's DPW-delivered MSW and convert the waste into either: (1) an energy form, such as electricity or (2) an energy product, such as ethanol. The contractor will process the residual ash to collect all metal fines for recycling and shall dispose of the residual ash at a licensed and permitted Landfill Facility as a waste or alternative daily cover; or reuse of the ash into a legally approved product.

(C) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including the price and technical components:

The contract was awarded as a result of a competitive solicitation process. One proposal was received. After negotiation with the offeror, the proposed price was determined to be reasonable. In addition, the offeror was determined to be responsible.

(D) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and prior performance on contracts with the District government:

Covanta Fairfax, Inc. began commercial operation in June 1990. As the largest Covanta facility, Covanta Fairfax, Inc. processes more than 3,000 tons per day of municipal solid waste for a population of more than 900,000 in Fairfax County, Virginia. The facility sells over 80 megawatts of renewable energy to Dominion Virginia Power Company, enough energy to meet the needs of over 80,000 homes.

The District has been utilizing Covanta's Fairfax location through an agreement with the County of Fairfax, Virginia since 2008.

(E) Performance standards and the expected outcome of the proposed contract:

The contractor's facility must be compliant with all applicable state, local and federal waste management, air emissions and water (groundwater, surface water and stormwater) regulations.

The contractor's facility must be able to accept the estimated volume of District MSW for the full term of the contract and the facility must maintain a minimum weight reduction percentage of 65%.

(F) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:

The Agency Financial Officer has certified that funding for this service was funded in the FY16 budget for DPW and that funding in subsequent fiscal years is anticipated.

(G) A certification that the proposed contract is legally sufficient, including whether the proposed contractor has any currently pending legal claims against the District:

The contract action has been determined to be legally sufficient.

-
- (H) A certification that the proposed contractor is current with its District and federal taxes or has worked out and is current with a payment schedule approved by the District or federal government:**

The Department of Employment Services and the Office of Tax and Revenue have confirmed that the contractor is in compliance with the tax filing requirements of the District.

- (I) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*):**

The contractor is not a certified local business enterprise.

- (J) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:**

None

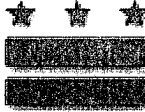
- (K) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:**

The contractor is not debarred or excluded from providing services to the District and federal governments.

- (L) Where the contract, if executed, will be made available online:**

A notification of contract award will be posted on the Office of Contracting and Procurement's website – www.ocp.dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES
Office of Unemployment Compensation/Tax Division



REVISED

TAX VERIFICATION RESPONSE - DOES

CONTRACT SPECIALIST: JANET CONCEPCION

AGENCY: OCP

VENDOR NAME: COVANTA FAIRFAX INC

D.C.DOES SUI ACCOUNT #:

FEDERAL ID #: 133410434

TO BE COMPLETED BY THE DEPARTMENT OF EMPLOYMENT SERVICES TAX DIVISION

THE DEPARTMENT OF EMPLOYMENT SERVICES CERTIFIES THAT:

The prospective Contractor is "IN COMPLIANCE" with the tax filing and payment requirements of the District of Columbia Unemployment Tax Laws or is in compliance with an established payment plan.

The prospective Contractor is "NOT IN COMPLIANCE" with the tax filing and payment requirements of the District of Columbia Unemployment Tax Laws. The Contractor may obtain details of the tax deficiency and make arrangements to correct this deficiency by contacting the tax enforcement officer whose name and telephone number follow:

Tax Enforcement Officer: Doris Artis

Phone #: (202) 741-8693

Comments

SIGNATURE

8/21/2015

DATE

Interim Tax Chief, Office of Unemployment Compensation

TITLE

(202)-698-6302

TELEPHONE/FAX NUMBER

This response/certification is valid for 90 days from the date specified above.

ATT: Compliance Officer

Office of Unemployment Compensation - Tax Division - 4058 Minnesota Avenue, NE, Washington, DC 20019

For more information, please go to the DOES Web Site at <http://www.does.dc.gov/>

DISTRICT OF COLUMBIA



Office of Tax and Revenue
1101 4th Street SW steW600
Collection Division
Washington, DC 20024

OFFICE OF TAX AND REVENUE
TAX VERIFICATION RESPONSE

REQUESTOR: JANET CONCEPCION

AGENCY: OCP

VENDOR NAME: CONVANTA FAIRFAX, INC FEIN: 13-3410434

TO BE COMPLETED BY THE OFFICE OF TAX & REVENUE

- The prospective contractor **is in compliance** with the filing and payment requirements of the District of Columbia tax laws.
- The prospective contractor/individual **is not liable** for the tax filing requirements of the District of Columbia.
- The prospective contractor **is not in compliance** with the tax filing and payment requirements of the District of Columbia Tax Law. The contractor may obtain details of the tax deficiency and make arrangements to correct this by contacting the Revenue Officer whose signature appears below.
- The prospective contractor has **recently been registered** with the District of Columbia and has not incurred any liabilities so far.
- Our records indicate that the prospective contractor **is not registered** to do business in the District of Columbia. Please contact the Office of Tax and Revenue, Customer Service Office at (202) 727-4829 to request a form FR-500 (Combined Registration Application) which must be fully completed and submitted to the address indicated on the form *Office of Tax and Revenue, PO Box 470 Washington, DC 20044-0470* or register online at: https://www.taxpayerservicecenter.com/FR500_Instructions.jsp.

Theresa Bo Sping
Collections Manager

8/5/2015
Date

Carolyn Powell
Carolyn Powell
Senior Revenue Officer

(202) 442-6588
Telephone Number

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER

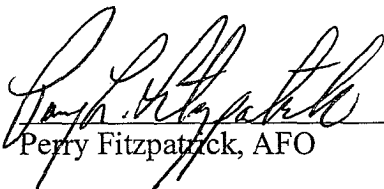


FINANCIAL PLAN AND BUDGET CERTIFICATION

CONTRACT NUMBER: CW34843
CAPTION: Waste to Energy Facility
CONTRACTOR NAME: Covanta Fairfax, Inc.
ESTIAMTED CONTRACT AMOUNT: \$35,661,880.00
ORGANIZATION CODE: KT
PERIOD OF PERFORMANCE: 1/1/16 – 12/31/20

I hereby certify that the Department of Public Works has \$5,439,282 budgeted for the FY16 portion of Contract CW3484. Funding for the remainder of the five year base period is contingent upon approval of future budgets by the Council and the Mayor.

Fiscal Year	Time Period	Estimated Contract Amount
FY16 (9 months)	1/1/16-9/30/16	\$5,349,282
FY17	10/1/16 – 9/30/17	\$7,132,376
FY18	10/1/17 – 9/30/18	\$7,132,376
FY19	10/1/18 – 9/30/19	\$7,132,376
FY20	10/1/19 – 9/30/20	\$7,132,376
FY21 (3 months)	10/1/20-12/31/20	\$1,783,094


Perry Fitzpatrick, AFO

9-15-2015
Date

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia are a proposed resolution entitled "Contract No. CW34843 Emergency Approval Resolution of 2015" to approve multiyear Contract No. CW34843 with Covanta Fairfax, Inc. for solid waste disposal services. Approval is necessary to allow the District to receive the benefit of these vital services from Covanta Fairfax. The contract will provide for a 5 year period of performance at an estimated price of \$35,661,880. The critical requirements of the District can only be met through an award of the approved multiyear contract to Covanta Fairfax.

Pursuant to section 451(c)(3) of the District of Columbia Home Rule Act, the legislation would approve this multiyear contract.

As always, I am available to discuss any questions you may have regarding this contract. In order to facilitate a response to any questions you may have regarding the contract, please have your staff contact Lauren Stephens, Public Information Officer, at (202) 724-4982.

I urge you to take prompt and favorable action regarding the enclosed legislation.

Sincerely,

Muriel Bowser
Mayor

Enclosure

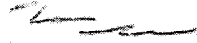
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Procurement Section

MEMORANDUM

TO: George A. Schutter
Acting Chief Procurement Officer
Office of Contracting and Procurement

FROM: Robert Schildkraut 
Chief, Procurement Section
Commercial Division

DATE: May 27, 2015

SUBJECT: Multiyear Contract for Waste to Energy Facility
Contractor: Covanta Fairfax, Inc.
Contract No. CW34843
Estimated Contract Amount: \$35,661,880.00

1. Description of the Proposed Multiyear Contract

The Office of Contracting and Procurement ("OCP") on behalf of the Department of Public Works proposes to award Contract No. CW34843 to Covanta Fairfax, Inc. ("Covanta") to deliver and dispose of the District's Municipal Solid Waste (MSW) at a Waste-to-Energy (WTE) Facility. The proposed multiyear contract is a fixed unit price contract with an allowable price adjustments provision, for the period starting January 1, 2016, through December 31, 2020 with two option periods.

2. Procurement Process

On November 21, 2014, the District issued a Request for Proposal DOC173543 (RFP) in the open market seeking contractors to deliver and dispose MSW to a WTE facility. Two amendments were issued to the RFP. On the closing date of December 30, 2014, OCP received only one proposal submitted by Covanta. The Contracting Officer (CO) negotiated with the Covanta, issued a third amendment to the solicitation and requested Covanta to submit a Best and Final Offer (BAFO). Covanta submitted a timely BAFO which was reviewed by the

Technical Evaluation Panel (TEP) and the CO. The CO determined that Covanta's proposal is most advantageous to the District and recommended award of the contract to Covanta.

3. Legal Review

By an undated memorandum, received in this Office on May 6, 2015, you requested that this Office review for legal sufficiency the proposed package.

We have reviewed and approved the contract package for legal sufficiency.

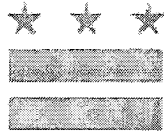
We note that in accordance with D.C. Official Code § 2-352.02 (2001), the Mayor must submit to the Council for approval these Modifications for over one million dollars.

If you have any questions, please contact Assistant Attorney General, Tamar Glazer at 727-9195.

RS

ProLaw No. 452002

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Procurement Section

MEMORANDUM

TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Robert Schildkraut
Chief, Procurement Section
Commercial Division

DATE: May 27, 2015

SUBJECT: Certificate of Legal Sufficiency for Multiyear Contract for
Waste to Energy Facility
Contractor: Covanta Fairfax, Inc.
Contract No. CW34843
Estimated Contract Amount: \$35,661,880.00
(PL 452002)

This is to Certify that this Office has reviewed the above-referenced Contract and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-4018.

A handwritten signature in black ink, appearing to read "Robert Schildkraut".

Robert Schildkraut

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

PRIVILEGED AND CONFIDENTIAL

MEMORANDUM

TO: Tamar N. Glazer
Assistant District Attorney
Office of Contracts and Procurement

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: May 27, 2015

SUBJECT: Legal Sufficiency Review of Draft Bill entitled the “Contract No. CW34843 Approval and Payment Authorization Emergency Act of 2015” and accompanying “Contract No. CW34843 Approval and Payment Authorization Emergency Declaration Resolution of 2015” (AE-15-307)

This memorandum responds to your request of May 15, 2015 requesting legal sufficiency review of a draft bill, the “Contract No. CW34843 Approval and Payment Authorization Emergency Act of 2015” and accompanying “Contract No. CW34843 Approval and Payment Authorization Emergency Declaration Resolution of 2015” (collectively, the “proposed legislation”).

The proposed legislation would approve Contract No. CW34843, which authorizes payment to Covanta Fairfax, Inc. to provide solid waste disposal services at a licensed and permitted Waste-to-Energy facility for a base period of five years, with two three-year options. The estimated value of the base period is \$35,661,880.00.

The proposed legislation is legally sufficient, and we have attached a Certificate of Legal Sufficiency to this memorandum. Please note, however, that the attached mark-up includes one minor technical revision. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer before transmittal to the Council.

If you have any questions, please contact Assistant Attorney General Elaine Block at 724-5198, or me at 724-5524.

JMR/elb

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Legal Counsel Division

MEMORANDUM

TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: May 27, 2015

SUBJECT: Legal Sufficiency Review of Draft Bill entitled the "Contract No. CW34843 Approval and Payment Authorization Emergency Act of 2015" and accompanying "Contract No. CW34843 Approval and Payment Authorization Emergency Declaration Resolution of 2015" (AE-15-307)

This is to Certify that this Office has reviewed the above-referenced Draft Bill and Emergency Declaration Resolution and found them to be legally unobjectionable. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

A handwritten signature in black ink, appearing to read 'Janet M. Robins', is written over a horizontal line.

Janet M. Robins

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to approve multi-year Contract No. CW34843 with Covanta Fairfax, Inc. to provide solid waste disposal services to be performed at a licensed and permitted Waste-to-Energy facility and to authorize payment for services to be received under the contract.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CW34843 Approval and Payment Authorization Emergency Declaration Resolution of 2015".

Sec. 2. (a) There exists a need to approve multi-year Contract No. CW34843 with Covanta Fairfax, Inc. to provide solid waste disposal services to be performed at a licensed and permitted Waste-to-Energy facility.

(b) The District proposes to enter into multi-year Contract No. CW34843 with Covanta Fairfax, Inc. for a base period of five years, with two three-year options. The estimated value of the base period is \$35,661,880.00.

1
2
3
4
5
6
7
8
9
10
11

(c) Council approval is necessary pursuant to section 451(b)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code §1-204.51(b)(1)), to allow provision of these services. Without this approval, the District will not have a place to dispose of collected municipal solid waste.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Contract No. CW34843 Approval and Payment Authorization Emergency Act of 2015 ~~to~~ be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To approve, on an emergency basis, multi-year Contract No. CW34843 with Covanta Fairfax, Inc. to provide solid waste disposal services to be performed at a licensed and permitted Waste-to-Energy facility and to authorize payment for services to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Contract No. CW34843 Approval and Payment Authorization Emergency Act of 2015".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves multi-year Contract No. CW34843 with Covanta Fairfax, Inc. and authorizes payment in the estimated amount of \$35,661,880.00 for services to be received under that contract for a base period of five years.

1 Sec. 3. The Council adopts the fiscal impact statement of the Chief Financial
2 Officer as the fiscal impact statement required by section 602(c)(3) of the District of
3 Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official
4 Code § 1-206.02(c)(3)).

5 Sec. 4. This act shall take effect following approval by the Mayor (or in the
6 event of veto by the Mayor, action by the Council to override the veto), and shall remain
7 in effect for no longer than 90 days, as provided for emergency acts of the Council of the
8 District of Columbia in section 412(a) of the District of Columbia Home Rule Act,
9 approved December 24, 1973 (87 Stat. 788; Pub. L. 93-198; D.C. Official Code § 1-
10 204.12(a)).

AWARD/CONTRACT		1. Reserved for later use		Page of Pages	
2. Contract Number CW34843		3. Effective Date 1/1/16		1 23	
5. Issued By: Office of Contracting and Procurement Transportation & Specialty Equipment Commodity Group 2000 14 th Street, NW 6 th Floor Washington, D.C. 20009		Code		4. Requisition/Purchase Request/Project No.	
7. Name and Address of Contractor (No. street, city, county, state and Zip Code) Covanta Fairfax, Inc. 9898 Furnace Road Lorton, VA 22079		8. Delivery <input type="checkbox"/> FOB Origin <input type="checkbox"/> Other		6. Administered by (If other than line 5) Department of Public Works Solid Waste Management Administration 4900 John F. McCormack Road NE, Washington, DC 20011	
11. Ship to/Mark For N/A		Code		9. Discount for prompt payment: N/A	
13. Remit Address:		12. Payment will be made by Department of Public Work Accounts Payable 2000 14 th Street, NW, 6 th Floor Washington, DC 20009		Code	
15A. Item		15B. Supplies/Services		10. Submit invoices to the Address shown in Section G.2 (2 copies unless otherwise specified)	
0001		Tipping Fee including Processing, Disposal of waste and Credits for metal fines recovery		14. Accounting and Appropriation Data ENCUMBRANCE CODE:	
0002		Fee to Dispose at an Alternate Disposal Site for any diverted waste		15C. Estimated Qty.	
				15D. Unit	
				15E. Unit Price	
				15F. Estimated Amount	
				Total Estimated Amount of Contract (5 years) \$35,661,880.00	

16. Table of Contents

(X)	Section	Description	Page	(X)	Section	Description	Page
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
X	A	Contract Form	1	X	I	Contract Clauses	16
X	B	Supplies or Services & Cost/Price	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS			
X	C	Services	6	X	J	List of Attachments	23
X	D	Packing and Marking	11				
X	E	Inspection and Acceptance	11	K	Representations, Certifications and Other Statements of Offerors		
X	F	Contract Term	11	L	Instructions, conditions & notices to offerors		
X	G	Contract Administration data	12	M	Evaluation factors for award		
X	H	Special Contract Requirements	15				

Contracting Officer will complete Item 17 or 18 as applicable

17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return (2) copies to issuing office.) Contractor agrees to furnish and deliver all items, perform all the services set forth or otherwise identified above and on any continuation sheets, for the consideration stated herein. The rights and obligations of the parties to this Agreement shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, as amended, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)		18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number DCKT-2009-R-0120 including the additions or changes made by which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.	
19A. Name and Title of Signer (Type or print) <i>Derek Vaenhot</i>		20A. Name of Contracting Officer Gena Johnson	
19B. <i>[Signature]</i> (Signature of person authorized to sign)		20B. District of Columbia (Signature of Contracting Officer)	
19C. Date Signed 5/15/15		20C. Date Signed	

SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

- B.1** The District of Columbia Office of Contracting and Procurement, on behalf of the Department of Public Works (the "District") requires solid waste disposal services at an existing licensed and permitted Waste-to-Energy Facility ("WTE Facility").
- B.2** The District awards a fixed-unit-price requirements contract with economic price adjustment.
- B.2.1** The District will purchase the requirements of the Department of Public Works for articles or services included herein from the Owner/Operator of the WTE Facility ("Contractor"). The estimated quantities stated herein reflect the best estimates available of the amount of Municipal Solid Waste (MSW) from residential and commercial sectors that are to be collected within the District, transported to the District's Fort Totten and Benning Road Transfer Stations, and then delivered to the Contractor's WTE Facility for processing under this Contract. 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. Subject to the limitations of section C.5.1.4, the estimated quantities shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.
- a) Delivery or performance shall be made only as authorized in accordance with the Ordering Clause, Section G.2. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. If the District urgently requires delivery of services before the earliest date that delivery may be specified under this contract, and if the Contractor shall not accept an order providing for the accelerated delivery, the District may acquire the urgently required goods or services from another source.
 - b) There is no limit on the number of orders that may be issued.
 - c) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor in accordance with the terms of the contract. 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; provided that the Contractor shall not be required to make any deliveries under this contract after contract expiration or termination.

B.3 PRICE SCHEDULE¹

B.3.1.1 BASE PERIOD (January 1, 2016 - December 31, 2020)

Contract Line Item Number (CLIN)	Description	Estimated Annual Quantity	Unit Price per Ton	Estimated Total Price
0001	Tipping Fee including Processing, Disposal of waste and Credits for metal fines recovery– District DPW-delivered Municipal Solid Waste at the Contractor’s Facility	202,000 tons	\$34.64	\$6,997,280.00
0002	Fee to Dispose at an Alternate Disposal Site for any diverted waste (reference sections C.5.3.1 and C.5.4.1)	3,900 tons	\$34.64	\$135,096.00
Subtotal – Estimated Annual Price				\$7,132,376.00
TOTAL ESTIMATED PRICE – BASE PERIOD [(0001+0002) x 5]				\$35,661,880.00

B.3.2.1 FIRST OPTION PERIOD (January 1, 2021 - December 31, 2023)

Contract Line Item Number (CLIN)	Description	Estimated Annual Quantity	Unit Price per Ton	Estimated Total Price
1001	Tipping Fee including Processing, Disposal of waste and Credits for metal fines recovery– District DPW-delivered Municipal Solid Waste at the Contractor’s Facility	202,000 tons	\$34.64	\$6,997,280.00
1002	Fee to Dispose at an Alternate Disposal Site for any diverted waste (reference sections C.5.3.1 and C.5.4.1)	3,900 tons	\$34.64	\$135,096.00
Subtotal – Estimated Annual Price				\$7,132,376.00
TOTAL ESTIMATED PRICE – OPTION PERIOD 1 [(1001+1002) x 3]				\$21,397,128.00

¹ The unit prices for the base and option periods are subject to the price adjustments outlined in section B.4.

B.3.3.1 SECOND OPTION PERIOD (January 1, 2024 - December 31, 2026)

Contract Line Item Number (CLIN)	Description	Estimated Annual Quantity	Unit Price per Ton	Estimated Total Price
2001	Tipping Fee including Processing, Disposal of waste and Credits for metal fines recovery-- District DPW-delivered Municipal Solid Waste at the Contractor's Facility	202,000 tons	\$34.64	\$6,997,280.00
2002	Fee to Dispose at an Alternate Disposal Site for any diverted waste (reference sections C.5.3.1 and C.5.4.1)	3,900 tons	\$34.64	\$135,096.00
Subtotal – Estimated Annual Price				\$7,132,376.00
TOTAL ESTIMATED PRICE – OPTION PERIOD 2 [(2001+2002) x 3]				\$21,397,128.00

B.4 ALLOWABLE PRICE ADJUSTMENTS

B.4.1 The tipping fee at the offeror's facility, which includes the disposal fee and processing of ash residue for metal fines recovery; and the alternative disposal fee may be adjusted on an annual basis for any of the following reasons:

a. Adjustment for Governmental Taxes, Surcharges, Fees and the Like:

Fees established under CLINs of this Contract that require payments by the District shall be adjusted to reflect new or increased or decreased municipal, county, state or federally imposed surcharges, taxes, assessments, or fees and the like (collectively, taxes and fees) on solid waste management or disposal which come into effect or are increased or decreased after the date of this Contract and is not already accounted for in the price.

In an adjustment under this economic price adjustment (EPA or Adjustment) provision, this Contract shall not bear a percentage share of the taxes and fees that is disproportionate to the District's average share of the usage of the Facility based upon delivered volume of MSW for the twelve calendar months preceding submission of Contractor's request for price adjustment. Adjustments under this provision shall not be included in the CLIN prices used as a base price for the Adjustment made during that same Contract year.

b. Economic Price Adjustment (EPA):

The Applicable EPA Index for this Contract is the “Unadjusted U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average—Services (Other Services).” The index can be located at www.bls.gov/cpi.

Contractor or the District may request that one or more of the Contract Fees be adjusted under this EPA provision based on the upward or downward change in the one-year BLS reporting period immediately preceding the Contract year. For purposes of Adjustments pursuant to this EPA provision, Contract years in the base period and option periods commence on the anniversary date of the Contract, including Contract years for Adjustments to partially or incrementally awarded option periods.

Adjustments under this provision B.4.1.b shall be determined for a Contract Year by multiplying the Contract Fee in effect for the previous Contract Year by the Adjustment Percentage. The Adjustment Percentage for each Contract Year shall be the “Unadjusted percent change” for the one-year CPI-U reporting period ending the full month before the first day of the new Contract Year.

The Contract Years for this EPA provision are measured from the anniversary of the award date of the Contract. The Contractor may not request and the District will not agree to any Adjustment for the first year of the base period of the Contract. The District will determine entitlement to Adjustments for all other Contract years and the Adjustment Percentages based upon the edition of the Applicable EPA Index published in the month preceding the first day of the Contract year.

- B.4.2** The Contractor shall submit to the Contracting Officer a detailed request for an Adjustment, including Fee adjustments initiated by the District, in which the Contractor must demonstrate the appropriate amount of the Adjustment. The District will define the acceptable supporting documents (e.g. print out from the Bureau of Labor Statistics website showing published CPI-U) required for an Adjustment to be considered. If the parties agree on the Adjustment amount, the Contracting Officer will issue a modification to the Contract reflecting the agreement by the parties to the Adjustment.

Adjustments under this section B.4 shall be made for complete Contract years, but the District shall not adjust any of the Fees for the first year of the base period. In order to be entitled to an upward adjustment in Fees for any Contract year, Contractor must submit its detailed request for annual Adjustment(s) within thirty (30) days after the start of the applicable Contract year or by an extended submission date granted in writing by the CO. All Adjustments under B.4 shall be for the complete Contract year, except when necessary to accommodate a partially-awarded option year.

SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE

The Government of the District of Columbia (“District”), Office of Contracting and Procurement on behalf of the Department of Public Works (DPW) requires solid waste disposal services to be performed at a licensed and permitted Waste-to-Energy Facility (“WTE Facility”) beginning on January 1, 2016. Disposal is defined as the acceptance of Municipal Solid Waste (MSW) by a permitted and licensed WTE Facility and includes the processing of the District’s DPW-delivered MSW into energy, the processing of residual ash to collect economically viable quantities of recyclable metal fines for recycling, and the final disposal of the residual ash into a permitted and licensed Landfill Facility as a waste or alternative daily cover. Alternatively, reuse of the ash into a legally approved product is encouraged.

C.2 APPLICABLE DOCUMENTS

While providing services under this contract, the Contractor shall hold and maintain compliance with all applicable laws and regulations issued by local, state, and federal solid waste management, air emissions and water (groundwater, surface water and stormwater) laws and regulations governing operation of the WTE and Landfill Facilities. Other regulations may be applicable as required by local, state and federal agencies and jurisdictions.

C.3 DEFINITIONS

- C.3.1 Licensed and Permitted WTE Facility** – A facility licensed and permitted by the state in which it operates to process solid waste into energy. The facility must be compliant with all applicable state, local and federal waste management, air emissions and water (groundwater, surface water and stormwater) regulations.
- C.3.2 Licensed and Permitted Landfill Facility** – A facility licensed and permitted by the state in which it operates to dispose of solid waste, ash residue, non-processable waste and/ or other waste materials. The facility must be compliant with all applicable state, local and federal waste management, air emissions and water (groundwater, surface water and stormwater) regulations. Other regulations may be applicable as required by local, state and federal agencies and jurisdictions.
- C.3.3 Acceptable Waste** - As defined on pages 3-5 of the Contractor’s Technical Proposal dated 12/30/14 (Attachment J.10)
- C.3.4 Unacceptable Waste** - As defined on pages 5-9 of the Contractor’s Technical Proposal dated 12/30/14 (Attachment J.10)
- C.3.5 Municipal Solid Waste (MSW)** – When used in this Contract, MSW includes mixed combustible solid waste from residential and commercial sectors that are collected within the District and transported to the District’s Fort Totten and Benning Road Transfer Stations. Mixed combustible MSW includes, but is not limited to the following items: household trash/garbage, paper, plastic, metal,

glass, yard waste, food waste, tires, and other materials that can be burned.

The residential sector areas that generate MSW that is transported to the District's transfer stations include, but are not limited to the following sources: single family homes, apartments, resident drop-offs, street and alley cleaning activities, special events, and public litter cans, etc.

The commercial sector areas that generate MSW that is transported to the District's transfer stations include, but are not limited to the following sources: office buildings, businesses, restaurants, schools, hospitals, cemeteries, non-profit organizations, District Agency buildings and facilities, and Federal Agency buildings and facilities, etc.

MSW for the purpose of this contract excludes non-combustible waste from residential, commercial, construction, institutional and medical sectors. Non-combustible MSW includes, but is not limited to the following items: dirt, grit, stones, rock, rubble, concrete, and bulky wastes, etc. Non-combustible MSW also excludes source-separated recyclables, construction and demolition debris (C&D) and hazardous waste.

C.4 BACKGROUND

The District currently operates two (2) solid waste transfer station facilities, Fort Totten and Benning Road. The Fort Totten Transfer Station is located at 4900 John McCormack Road, NE, Washington, DC 20011. The Benning Road Transfer Station is located at 3200 Benning Road, NE Washington, DC 20019. The estimated annual tonnage that will require acceptance of delivery and processing at the WTE Facility is 202,000 tons of the District's DPW-delivered MSW.

The actual tonnage disposed of at the current waste-to-energy facility in Fairfax, Virginia for the three previous fiscal years and current fiscal year through June 30, 2014 is as follows:

Year	Amount Disposed (tons)	Amount Rejected (tons)
2011	214,221	0
2012	214,426	0
2013	199,062	0
2014 thru 6/30/14	141,474	0

C.5 REQUIREMENTS

C.5.1 The Contractor shall operate a licensed and permitted WTE Facility that shall receive and accept the District's DPW-delivered MSW and convert the waste into either: (1) an energy form, such as electricity or (2) an energy product, such as ethanol.

- C.5.1.1** Contractor shall process residual ash to collect all metal fines for recycling and shall dispose of the residual ash at a licensed and permitted Landfill Facility as a waste or alternative daily cover; or reuse of the ash into a legally approved product. Contractor shall provide monetary credits (which is included in the price in Section B.3) to the District for metal fines recovered from ash residue from the District's DPW-delivered MSW. The amount of the credit provided for metal fines recovery to the District shall be calculated based on the proportional amount of District waste to the Contractor's overall annual volume and reported on the monthly report outlined in section C.5.1.6 below).
- C.5.1.2** The Contractor's WTE Facility shall have a documented, minimum weight reduction percentage of 65%.
- C.5.1.3** The Contractor's WTE Facility shall have established operating protocol including operating hours, days of operations, days the facilities are closed and by-pass contractual arrangements in the event that the WTE Facility cannot process the District's DPW-delivered MSW. Upon contract award and during the term of the contract, the Contractor shall provide the CA the above referenced information and notify, as soon as practical, the CA if there are any changes to the operating protocol and operational information. The District's Transfer Stations currently operate as follows:
- Fort Totten – Monday through Friday, 4:00 AM – 6:00 PM and Saturday, 4:00 AM – 4:00 PM;
 - Benning Road – Monday through Friday, 4:00 AM – 4:00 PM and Saturday after Holidays, 4:00 AM – 4:00 PM.
 - Other circumstances outside of the District's control may require District Transfer Stations to operate longer hours, which may require the Contractor's WTE Facility to provide extended operational hours.
- C.5.1.4** The Contractor's WTE Facility shall have the capacity to accept and process short-term increases in the District's DPW-delivered MSW tonnage due to a natural or manmade disaster. A short-term increase shall be considered a 25% volume increase equating to approximately 50,000 tons in any contract year. The WTE Facility shall also have the ability, upon reasonable notice from the District, to extend operating hours for the receipt of materials under such conditions.
- C.5.1.5** During the term of the contract, the Contractor shall provide the CA any changes to the list of acceptable and unacceptable waste, the operating protocols and primary points of contacts at the WTE Facility (initially provided with its proposal) and shall update the submissions for any future changes to such information.
- C.5.1.6** During the term of the contract, the Contractor shall provide a Monthly Report to the CA that summarizes, at a minimum, (a) inbound tonnage of

the District's DPW-delivered MSW, (b) outbound tonnage of ash residue, (c) outbound tonnage for metal fines recovery, and (d) the overall weight reduction percentage for the month. Scale tickets for the metal fines recovery shall be included as listed attachments to the Reports. This information shall also be tabulated over the year to create an Annual Report to the CA. The Monthly Report shall be due by the 10th of each month or with the monthly invoice whichever is provided sooner, and the Annual Report shall be due by January 31st.

- C.5.1.7** During the term of the contract, the Contractor shall provide the CA an Environmental Compliance and Nuisance Complaint Summary. This Summary shall be generated from air emissions and water quality data reported in regulatory reports for governing federal, state and local entities and authorities, as well as from information received from nuisance complaints regarding the facility's operations. The Contractor shall state the nature and corrective measure for any and all citations, notices of violations or complaints, as this may impact the WTE Facility's or Landfill Facility's ability to operate. After the initial submission with the Contractor's proposal, the Environmental Compliance and Nuisance Complaint Summary shall be due by January 31st of each Contract year.
- C.5.1.8** The Contractor's WTE Facility shall have been in commercial operation for at least 3 years and shall be located within a 50-mile geographic radius (one-way hauling) of the Fort Totten and Benning Road Transfer Stations.
- C.5.1.9** The Contractor's WTE Facility, the Landfill Facility, and any alternate disposal facility must be licensed and permitted by the state in which it resides to operate and to dispose of solid waste, ash residue, and/or other waste materials. The facility must be compliant with all applicable federal, state, municipal and other local governmental bodies licensing, permitting and similar requirements for business operations and for waste management, air emissions and water (groundwater, surface water and stormwater) as well as regulations for any of these purposes. Other regulations may be applicable as required by local, state and federal agencies and jurisdictions.
- C.5.2** At the beginning of each contract year, the District will inform the Contractor in writing of the names of the firms authorized to haul MSW on behalf of the District for the purposes of disposal at the Contractor's WTE Facility.
- C.5.2.1** The Contractor shall provide the District access to its WTE Facility for deliveries of MSW during the WTE Facility's normal receiving hours. The Contractor shall continuously maintain the access routes at the WTE Facility by all means necessary (e.g. stabilized construction entrances with stone during times of precipitation) to allow continuous service for the acceptance of the District's DPW-delivered MSW.
- C.5.2.2** The Contractor shall provide reasonable alternative means of access if the access route to the WTE Facility becomes impassable for any reason.

C.5.3 If and to the extent events or circumstances arising from causes beyond the control and without the fault or negligence of the Contractor (“excusable events”, as further defined in SCP-8, *Default*) cause the WTE Facility to be unable to accept any of the District’s DPW-delivered MSW, the Contractor must redirect or divert that MSW to another disposal facility contracted by the Contractor without notice and shall be responsible for related costs in accordance with C.5.3.1 and C.5.3.2.

C.5.3.1 The Contractor shall pay disposal costs (including tipping, processing and disposal) at the alternate disposal facility and include the costs of those redirected or diverted tonnages in the monthly billing to the District at the CLIN 0002 rate (in the base period and option periods) as stated in Section B.3 – Price Schedule.

C.5.3.2 On the occurrence of an excusable event, Contractor shall reimburse the District for reasonable increased costs billed by its designated hauler that are related to increased hauling from redirected or diverted tonnages **only if** Contractor failed to use all commercially reasonable efforts to overcome, mitigate, and remedy (collectively, mitigate) its inability to perform its obligations and the services due the District under this Contract. Further, Contractor shall reimburse these increased costs specified in C.5.3.2 only to the extent that the costs were directly caused by Contractor’s failure to mitigate pursuant to C.5.3.2.

The price for increased hauling pursuant to C.5.3.2 will be as stated in existing District Contract #CW20202 or successor hauling contracts for MSW. The District will deduct such costs from payments owed to the Contractor and provide the Contractor documentation of the deductions.

C.5.4 If and to the extent events or circumstances within the Contractor’s reasonable control, including routine, planned maintenance, cause the WTE Facility to be unable to accept any of the District’s DPW-delivered MSW, the Contractor may redirect or divert the District’s DPW-delivered MSW to another disposal facility contracted by the Contractor with reasonable advance notice to the CA and shall be responsible for related costs in accordance with C.5.4.1 and C.5.4.2.

C.5.4.1 The Contractor shall pay disposal costs (including tipping, processing and disposal) at the alternate disposal facility and include the costs of those redirected or diverted tonnages in the monthly billing to the District at the CLIN 0002 rate (in the base period and option periods) as stated in Section B.3 – Price Schedule.

C.5.4.2 The Contractor shall reimburse the District for any reasonable increased costs billed by its designated hauler related to the increased hauling from those redirected or diverted tonnages. The price per mile for this hauling will be as stated in the existing District Contract #CW20202 or successor hauling contracts for MSW. The District shall not incur any portion of the increased hauling costs related to the diversion of the MSW. . The District

will deduct such costs from payments owed to the Contractor and provide the Contractor documentation of the deductions.

SECTION D: PACKAGING AND MARKING

Not applicable.

SECTION E: INSPECTION AND ACCEPTANCE

E.1 The inspection and acceptance requirements for this 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 July 2010. (Attachment J.1)

SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the contract shall be for a period of five years from date of award specified on the cover page of this contract.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract by one or more of the two 3-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 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 Section B of the contract.

F.2.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed 11 years.

F.3 DELIVERABLES

The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the Contract Administrator (CA) identified in section G.6 in accordance with the following:

SOW Section	Deliverable	Format/Method of Delivery	Due Date
C.5.1.3	Operating Protocols and any updates	Written correspondence with hard copy and electronic PDF copy to CA	Ongoing during term of contract
C.5.1.5	List of acceptable and unacceptable waste and any updates	Written correspondence with hard copy and electronic PDF copy to CA	Ongoing during term of contract
C.5.1.6	Monthly and Annual Reports	Written correspondence with hard copy and electronic PDF copy to CA	10 th of each month or with the monthly invoice; January 31 st , respectively
C.5.1.7	Environmental Compliance and Nuisance Complaint Summary	Written correspondence with hard copy and electronic PDF copy to CA	January 31 st

F.3.1 The Contractor shall submit to the District, as a deliverable, the report described in paragraph 35(e) of clause 35 of the 2010 SCPs (Attachment J.1) 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 shall not be paid pursuant to paragraph 28(e) of clause 28 of the 2010 SCPs.

SECTION G: CONTRACT ADMINISTRATION

G.1 INVOICE SUBMITTAL

G.1.1 The Contractor shall submit proper invoices on a monthly basis as specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer with concurrent copies to the CA specified in Section G.9 below. The address of the CFO is:

Department of Public Work
Accounts Payable
2000 14th Street, NW, 6th Floor
Washington, DC 20009
Telephone 202-671-2300

G.1.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

- G.1.2.1** Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);
- G.1.2.2** Contract number and invoice number;
- G.1.2.3** Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

- G.1.2.4** Other supporting documentation or information, as required by the Contracting Officer;
- G.1.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- G.1.2.6** Name, title, phone number of person preparing the invoice;
- G.1.2.7** 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.1.2.8** Authorized signature.

G.2 ORDERING

- G.2.1** Any supplies and services to be furnished under this contract must be ordered by the District as stated in this section. Such orders may be issued during the term of this contract.
- G.2.2** With the exception noted in this section G.2.2, the services to be furnished under this contract are ordered by award of the contract or of an option period, and issuance of a Purchase Order. During an awarded contract period, Contractor shall deliver the services as the needs present themselves during operation of the WTE Facility, an alternate facility, or Landfill Facility. MSW processing services and ancillary services required by contract section C.5 shall be provided upon delivery by DPW, through its hauling contractor(s) of MSW to the WTE Facility during the term of the contract, including option years. For required support of its payment invoices Contractor shall document each presentment of MSW to the WTE Facility (order) as required by the contract.
- G.2.3** All orders are subject to the terms and conditions of this contract. In the event of a conflict between an order and this contract, the contract shall control.

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 paragraph (e) of clause 35 of the 2010 SCPs .
- G.3.2** No final payment shall be made to the Contractor until the agency 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 contractor on a monthly basis based on the unit prices listed in section B.3 – Price Schedule.

G.5 CONTRACTING OFFICER (CO)

Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

Gena Johnson
Office of Contracting and Procurement
2000 14th Street, NW, 6th Floor
Washington, DC 20009
Telephone: 202-671-2205
E-mail address: gena.johnson@dc.gov

G.6 CONTRACT ADMINISTRATOR (CA)

The address and telephone number of the CA is:

Stephen T. Lezinski
Associate Administrator, Chief of Disposal
DPW, Solid Waste Management Administration
4900 John F. McCormack Road NE, Washington, DC 20011
Tel. (o): (202) 698-4692
Tel. (c): (202) 438-8353
Fax: (202) 576-6780
Email: Stephen.Lezinski@dc.gov

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

H.1.1 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.1.1.1 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.1.2 The Contractor shall negotiate an Employment Agreement with the Department of Employment Services ("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.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. 2005-2103, Revision No. 14, dated 7/25/14, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and incorporated herein as Section J.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

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 July 2010 ("SCP") are incorporated as part of the contract. To obtain a copy of the SCP go to www.ocp.dc.gov, click on OCP Policies under the heading "Information", then click on "Standard Contract Provisions – Supplies and Services Contracts".

I.2 CONTRACTS THAT CROSS FISCAL YEARS

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

I.3 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 CO 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 CO. 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 provide the CO 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 CO 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 CO 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.

6. Environmental Liability Insurance. The Contractor shall provide a policy to cover costs associated with bodily injury, property damage and remediation expenses associated with pollution incidents including, but not limited to, mold, toxins and water pollutants. The policy shall provide a minimum of \$2,000,000 in coverage per incident and \$2,000,000 aggregate.

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.**

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.

D. **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.

E. **NOTIFICATION.** The Contractor shall immediately provide the CO 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 CO.

F. 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 the Contracting Officer.

H. DISCLOSURE OF INFORMATION. The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this contract.

I.4 ESTIMATED QUANTITIES

I.4.1 It is the intent of the District to secure a contract for all of the needs of the Department of Public Works for receiving and processing the MSW which may occur during the contract term. The District agrees that it will purchase its requirements of the services included herein from the Contractor. Services specified herein have a history of repetitive use in the District agency. The estimated quantities stated in this contract reflect the best estimates available. They shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of his obligation to fill all such orders. Orders will be placed from time to time if and when needs arise for delivery, all charges prepaid, to the ordering agency. The District does not guarantee to order any specific quantities of any item(s) or work hours of service.

I.4.2 Estimated quantities of the Contract have been prepared based on historical tonnage records and/or in consideration of best available information regarding the potential for: service population increases, waste generation increases, changes to collection and recycling practices, and changes to laws. The estimated quantities have been determined to be fair and reasonable for the services of the Contract.

I.5 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 reproduction 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.6 DISPUTES (Interim PPRA Version, July 2011) (Delete Article 14, Disputes, of the Standard Contract Provisions for District of Columbia Government Supplies and Services Contracts, July 2010, and substitute this provision I.6, Disputes):

I.6.1 All disputes arising under or relating to this contract shall be resolved as provided herein.

I.6.2 Claims by a Contractor against the District:

Claim, as used in paragraph I.6.2 of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

I.6.2.1 All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the CO for a decision. The Contractor's claim shall contain at least the following:

I.6.2.1.1 A description of the claim and the amount in dispute;

I.6.2.1.2 Data or other information in support of the claim;

I.6.2.1.3 A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and

I.6.2.1.4 The Contractor's request for relief or other action by the CO.

I.6.2.2 The CO may meet with the Contractor in a further attempt to resolve the claim by agreement.

I.6.2.3 The CO shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

I.6.2.4 The CO's written decision shall do the following:

I.6.2.4.1 Provide a description of the claim or dispute;

I.6.2.4.2 Refer to the pertinent contract terms;

I.6.2.4.3 State the factual areas of agreement and disagreement.

I.6.2.4.4 State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

I.6.2.4.5 If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;

I.6.2.4.6 Indicate that the written document is the CO's final decision; and

I.6.2.4.7 Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

I.6.2.5 Failure by the CO to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as provided by D.C. Official Code § 2-360.04.

I.6.2.5.1 If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.

I.6.2.5.2 Liability under Paragraph I.6.2.5.1 shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

I.6.2.6 Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

I.6.3 Claims by the District against a Contractor:

I.6.3.1 Claim as used in paragraph I.6.3 of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

I.6.3.2 The CO shall decide all claims by the District against a contractor arising under or relating to a contract.

I.6.3.2.1 The CO shall send written notice of the claim to the Contractor. The CO's written decision shall do the following:

I.6.3.2.1.1 Provide a description of the claim or dispute;

- I.6.3.2.1.2** Refer to the pertinent contract terms;
 - I.6.3.2.1.3** State the factual areas of agreement and disagreement;
 - I.6.3.2.1.4** State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
 - I.6.3.2.1.5** If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
 - I.6.3.2.1.6** Indicate that the written document is the CO's final decision; and
 - I.6.3.2.1.7** Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- I.6.3.3** The CO shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
- I.6.3.4** Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement
- I.6.3.5** The authority contained in this clause I.6.3 shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
- I.6.3.6** This clause shall not authorize the CO to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- I.6.4** Decisions of the CO shall be final and not subject to review unless the Contractor timely commences an administrative appeal for review of the decision, by filing a complaint with the Contract Appeals Board, as authorized by D.C. Official Code § 2-360.04.
- I.6.5** Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

I.7 INCORPORATED DOCUMENTS AND ORDER OF PRECEDENCE

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) Contract document (Page 1 and Sections B through J)**
- (2) Standard Contract Provisions**
- (3) Contract attachments other than the Standard Contract Provisions**
- (4) RFP No. Doc173543, as amended**
- (5) BAFO dated 3/20/15**
- (6) Technical Proposal dated 12/30/14**

I.8 PRE-AWARD APPROVAL – MULTI-YEAR CONTRACT

In accordance with D.C. Official Code § 2-352.02(a) and §1-204.51(c), the Council of the District of Columbia must approve an award of any contract that has term extending beyond twelve (12) months.

SECTION J: ATTACHMENTS

The following attachments are incorporated into the contract.

Attachment Number	Document
J.1	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (July 2010)
J.2	U.S. Department of Labor Wage Determination No. 2005-2103, Revision No. 15, dated
J.3	Equal Employment Opportunity Statement
J.4	First Source Employment Agreement
J.5	Way to Work Amendment Act of 2006 - Living Wage Notice
J.6	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet
J.7	Tax Certification Affidavit
J.8	Bidder/Offeror Certifications
J.9	Contractor's Best and Final Offer dated 3/20/15
J.10	Contractor's Technical Proposal dated 12/30/14