

MEMORANDUM

Agenda Item No. 8(P)(2)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 16, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving award of competitive contract nos. EVN0000148-Z1, EVN0000148-Z2, and EVN0000147, in a cumulative amount not to exceed \$197,851,408.00; authorizing a non-competitive designated purchase pursuant to section 2-8.1(b)(3) of the County Code by a two-thirds vote of the Board members present for contract no. EVN0000148-Z3 in an amount not to exceed \$91,511,960.00; and authorizing the County Mayor to execute same for and on behalf of Miami-Dade County and exercise all provisions of the contracts, including any cancellations, renewals or extensions, pursuant to section 2-8.1 of the Code and Implementing Order 3-38

Resolution No. R-680-24

The accompanying resolution was prepared by the Strategic Procurement Department and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.


Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Recommendation to Award Contracts for Curbside Recycling Program (Collection and Processing)

Executive Summary

This item is for award of four recycling contracts for the Department of Solid Waste Management (DSWM) to continue providing household curbside collection, hauling and processing of recyclable materials for County residents and municipalities. Through these contracts, DSWM will implement an innovative and productive Curbside Recycling Program (Program) in the County's Waste Collection Service Area (WCSA) and contracted municipalities for approximately 363,347 homes. The Program includes collecting and transporting recyclable materials every other week from all single-family homes, duplexes, triplexes, and some cluster homes of four or less dwelling units in the unincorporated areas and partner municipalities, the City of Miami Beach and the City of South Miami.

The competitive solicitation for the collection of recyclable materials and transportation to the County's designated processing facilities resulted in recommendations for the three zones in the Program:

Item 1.1 – Zone 1 (North): Coastal Waste & Recycling of Florida, Inc. in an amount up to \$70,294,632

Item 1.2 – Zone 2 (Central): Waste Management, Inc. of Florida in an amount up to \$56,356,776

Item 1.3 – Zone 3 (South): Waste Connections of Florida, Inc. in an amount up to \$91,511,960*

**As further explained in the item, this award is in the form of a non-competitive designated purchase.*

Under a separate competitive solicitation, the processing of recyclable materials for the Program resulted in the following recommendation:

Item 1.4 – Waste Management, Inc. of Florida in an amount up to \$71,200,000

In addition to ensuring residents' recycling needs are met, these contracts will have environmental benefits typically associated with recycling, such as a reduction in fossil fuels and greenhouse gases, conservation of natural resources, a reduction in County landfill airspace usage, and a reduction in pollution impacts from mining, manufacturing, and transportation. The curbside recycling contracts also include the use of a new fleet with the latest technology, including GPS telematics and video capabilities in each truck. The truck upgrade aims to minimize customer complaints by improving service quality and decreasing issues caused by breakdowns, missed routes, and leaks of oil and fluids throughout the county. Additionally, the new dedicated fleet will curb recycling contamination caused by the use of trucks for other services. Trucks will be replaced with a new fleet as they reach the seven years useful life threshold.

Given the significant challenges in the market for recycled goods and the increasing costs of fuel, labor and equipment, the Administration is working on a long-term plan that will put the County on a path to achieve zero waste by 2050. The Zero Waste Strategy will emphasize waste reduction, composting, and other waste management and diversion strategies that will reduce collection and processing costs in the long run.

Background

DSWM launched its Curbside Recycling Program 1990 in its WCSA which currently includes UMSA and ten municipalities, as well as nine other cities with interlocal agreements. The original program used a dual-stream system with two 18-gallon bins for paper and bottles/cans. Waste collectors manually sorted materials into separate compartments on the collection vehicle and delivered them to a Materials Recovery Facility (MRF). By 2007, this method collected over 31,000 tons of recyclable materials.

In 2008, the program transitioned to a single-stream system, utilizing 65-gallon carts and automated collection. This shift improved efficiency and safety, resulting in nearly 60,000 tons of recyclables collected annually. Contracts for biweekly curbside collection were awarded to Coastal Waste & Recycling, Waste Connections, Inc., and Waste Management, Inc. of Florida (WMI), the latter handling processing and marketing. In 2015, the WMI contract was renewed through March 2023, with efforts to reduce contamination. The program expanded to accept lightly soiled pizza boxes, yogurt, and butter tubs, in addition to existing items like office paper, corrugated cardboard, plastic and glass bottles, aseptic containers (e.g., juice boxes and milk cartons), and metal cans.

Prior to initiating new solicitations, DSWM retained the services of a consultant to help evaluate options for Countywide recycling per Resolution R-1072-19. The Recycling Analysis and Program Planning Report presented findings and options that the County could consider including long-term collections and processing options. The report recommended continuing the current levels of service as a bridge until the award of new contracts through a competitive process. In 2023, a bridge contract extension was approved by the Board to ensure continuity of the Program while the replacement solicitations were evaluated, negotiated, awarded, and transitioned. The negotiated extensions for the collections contracts maintained the same terms (frequency of collections and same service days) and conditions, the negotiated price for collection increased by approximately 28%. There were several factors contributing to the change in pricing. Significant increases in the costs of fuel, labor, and trucks have led to industry-wide increases in collection prices.

The expiring processing contract from 2008 was negotiated during vastly different market conditions and as a result was extremely favorable to the County. For the 15-year contract period, the County received approximately \$700,000 on an annual basis, from the sale of commodities on a per ton basis, which was adjusted annually per CPI. Over the life of the contract the Department collected revenues for the materials delivered to the vendor's MRF in Pembroke Pines. Global market forces shifting the economics of recycling are also at play. Historically, the United States has exported a large portion of its recyclables to China; however, as of Spring 2019, the China National Sword policy banning waste imports has caused recycling revenues to drop below the level needed to cover processing costs at many facilities. With limited markets for recycling materials, the price for recycled materials dropped significantly. In the last three years, recycling processing costs at MRFs increased from about \$50 per ton to over \$100 per ton.

The negotiated extension for processing of materials maintained the same terms and conditions of the contract (types of materials received and transfer locations), except instead of receiving revenues from the sale of recyclables, the County must now pay for processing of recyclable materials due to the above-mentioned industry and market conditions. Under the contract extension, the County agreed to pay \$143.99 per ton and reserved the right to revisit based on the results of recyclables composition study. This per ton rate includes a transfer fee for the delivery of recyclables to the MRF which is located in Pembroke Pines, Florida.

For the 15-year term of the current contract for processing, DSWM was paid for the recyclable material processed and there was no expenditure associated. The revenue collected for the 15-year term was \$10,222,452. However, for the two-year extension period the County is paying \$17,000,000. The two-

year extension period expires on March 31, 2025. The current cost for processing of the recyclable materials is \$136.95 per ton and the County does not receive revenue generated from the sale of recyclable materials.

The proposed processing cost in the new agreement is \$145 per ton and the County will receive 100 percent of the revenue generated from the sale of the recyclable materials. At today's Average Material Value (AMV), the revenue generated is estimated to be approximately \$46 per ton resulting in a net cost of \$99 per ton. This represents an overall estimated net fiscal impact to the County for the contract term of \$71,200,000. The new net cost per ton represents a savings of approximately 28 percent from the current price per ton. When compared with the current contract extension cost using January 2024 AMVs, this agreement may save an estimated amount of \$24,201,598 over 10 years.

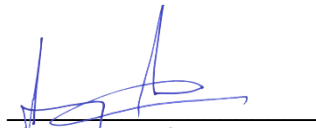
Since June 1, 2024, the new Recycling Contamination Abatement Ordinance has been in effect. This ordinance allows officers to inspect blue carts for contamination. Carts found to be contaminated receive warnings, and after three warnings, a \$152.00 service fee is charged for each subsequent infraction. During the educational period from June 1, 2023, to May 31, 2024, 10,390 carts were inspected, of which 34% were found to be contaminated.

DSWM's outreach efforts remain robust, with education efforts that include various event booths, school engagements, social media campaigns, and webinars, supported by initiatives like hot stamps on cart lids and the "Recycle Right" campaign. This strategic approach enhances efficiency, reduces contamination, and promotes community education, driving the success of Miami-Dade County's recycling program. These efforts have led to a significant reduction in contamination, from 48.8% in 2020 to 39.9% in 2023, a nearly 10% decrease. The processing contract includes \$100,000 per year from the vendor towards public education and outreach programs to further reduce contamination of recyclable materials.

Scope, Fiscal Impact/Funding Source, Track Record/Funding Source, Delegated Authority, and Due Diligence

These items are individually addressed in all four contract awards.

Attachments


Jimmy Morales
Chief Operating Officer

Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Recommendation to Award a Contract for Curbside Recycling Collection Program -
Zone 1

Executive Summary

This contract will provide a recycling program for Miami-Dade County (County) residents through an integrated waste management system. Through this contract, the Department of Solid Waste Management (DSWM) will implement an innovative and productive curbside recycling collection program in the County's Waste Collection Service Area (WCSA) and contracted municipalities, for approximately 363,347 homes. The program includes collecting and transporting recyclable materials from County residents and municipalities within the three zones located in the North (Zone 1), Central (Zone 2), and South (Zone 3) residential areas to the County's designated materials processing facilities.

This item is for the award of a contract for collection of materials within Zone 1 and transportation to designated facilities for processing. The processing and sale of recyclables by the County's service provider will be awarded under a separate contract. Items for the award of contracts for Zones 2 and 3 are being submitted for approval in parallel with this item, along with an item for processing of recyclable materials. In addition to ensuring residents' recycling needs are met, these contracts will have environmental benefits typically associated with recycling, such as a reduction in fossil fuels and greenhouse gases, conservation of natural resources, a reduction in County landfill airspace usage, and a reduction in pollution impacts from mining, manufacturing, and transportation. The contract also includes use of a new fleet with the latest technology including GPS telematics and video capabilities in each truck to reduce customer complaints and concerns. Trucks will be replaced with a new fleet as they reach the seven years useful life threshold. The contract approval paves the way for a new fleet, poised to improve the service quality by mitigating complaints arising from breakdowns, missed routes, and leaks of oil and fluids throughout the County. Furthermore, the dedicated fleet will decrease recycling contamination, stemming from the use of trucks for other services.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. EVN0000148-Z1, Curbside Recycling Collection Program*, for Zone 1 to Coastal Waste & Recycling of Florida, Inc. (Coastal) for DSWM in the amount of \$70,294,632 for an eight-year term with two, two-year options to renew. This contract will replace *Contract No. RFP545A* (Zone 1), approved by the Board via Resolution No. R-189-08 for a total of 15 years, including renewals. The contract was extended for two years by the Board via Resolution No. R-199-23 and will expire on March 31, 2025.

Background

A Request for Proposals (RFP) was issued under full and open competition on December 19, 2022. On the closing date of December 15, 2023, the County received proposals from four proposers: i) Coastal submitted for Zones 1 and 2; ii) Waste Management, Inc. of Florida submitted for Zone 2; iii) Waste Connections of Florida, Inc. submitted for Zone 3; and iv) Total Connection, Inc. (TCI) only submitted the fillable online forms and failed to submit any technical or pricing information. As such, the Selection Committee had nothing to evaluate and score.

The evaluation of Coastal, the sole responsive proposer for Zone 1, was conducted on January 23, 2024. Negotiations commenced and concluded in March 2024. The RFP closing date was extended

numerous times to allow time to award *Solicitation No. EVN0000147, Processing of Recyclable Materials*, as proposers would need to know the locations where they needed to transport the collected recyclable materials to price their proposals accordingly. The closing date of the RFP for Processing of Recyclable Materials was also extended numerous times to allow time to complete a Recycling Composition Study which provided necessary information for Proposers to prepare and submit accurate price proposals.

On December 21, 2023, the proposal from TCI was forwarded to the County Attorney's Office (CAO) for review. The CAO responded on January 8, 2024, and deemed TCI non-responsive, for failure to submit a complete Proposal Submission Package.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the eight-year term is \$46,863,088. Should the County choose to exercise, at its sole discretion, the two, two-year options to renew, the estimated cumulative value will be \$70,294,632, which includes a 20 percent contingency for anticipated household growth which is expected to increase recyclables and Living Wage adjustments for the duration of the contract. The current contract is valued at \$63,527,500 for a 17-year term, which includes a two-year year extension and expires on March 31, 2025. The annualized allocation under the proposed contract is higher than the current contract due to increases in pricing and the number of households since 2008. For example, every-other-week collection services per household started at \$1.92 per month in 2008. The current cost for the same service per household is \$3.00 per month and the new cost under this contract will be \$3.08 per month. The new cost per household represents an increase of 60 percent since inception of the contract in 2008, but only a 2.7 percent increase compared to the current cost per household. In general, the Living Wage rates with health benefits have increased by 57 percent since 2008. Additionally, the number of households in Zone 1 has increased approximately 10 percent since 2008. County households are expected to increase by 8 percent over the life of the contract.

Department	Allocation	Funding Source	Contract Manager
DSWM	\$70,294,632	Proprietary Funds	Karina Careaga
Total	\$70,294,632		

Track Record/Monitor

Jonathan Desverguñat of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to execute the agreement and exercise all provisions, including any cancellation, renewals, or extensions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Coastal Waste & Recycling of Florida, Inc.	1840 NW 33 Street Pompano Beach, FL	6605 NW 74 Avenue Miami, FL	171	Brendon J. Pantano
			15%	

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Vendor Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Total Connection, Inc.	Yes	Deemed non-responsive by the CAO (opinion attached)

Due Diligence

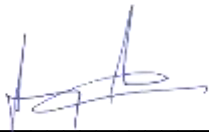
Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues through various vendor responsibility lists and a keyword internet search. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, hiring a consultant to ensure that the recycling industry's best practices were incorporated, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department. The scope of services was updated to include a preference for a new environmentally friendly fleet of vehicles at contract commencement, GPS and video recording capabilities within the vehicles to mitigate customer complaints/concerns, geographical redistribution of the zones, and additional options for collection schedules.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program applies.
- The Small Business Enterprise Selection Factor and Local Preference applied.
- The Living Wage Ordinance applies.

Attachment



Jimmy Morales
Chief Operating Officer

Memorandum



Date: February 2, 2024

To: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Thru: Jessica Tyrrell, MBA CPPB *jlt*
Division Director
Strategic Procurement Department

From: Alejandro Garcia
Procurement Contracting Officer II *Alejandro Garcia*
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for RFP No. EVN0000148 Curbside Recycling Collection Program

The Strategic Procurement Department (SPD) issued a competitive Request for Proposals on December 19, 2022, on behalf of Department of Solid Waste Management (DSWM), to obtain proposals from qualified firms to implement an innovative, productive, and cost-effective curbside recycling collection program in the County's Waste Collection Service Area (WCSA) and certain municipalities. This program includes collecting and transporting recyclable materials from residential units within three Zones to the County's Designated Materials Processing Facilities. The County anticipates awarding up to three contracts, one for each Zone, for an eight-year term, with two, two-year options to renew.

On December 15, 2023, four proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of the sole responsive proposal for Zone 1 and two responsive proposals for Zone 2 following the guidelines published in the solicitation. There were no responsive proposals received for Zone 3.

Competitive Selection Committee meeting dates:

January 4, 2024 (Kick-off Meeting)

January 23, 2024 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:

A Small Business Enterprise selection factor was assigned to this solicitation. The responsive proposers did not qualify for the selection factor.

Verification of compliance with minimum qualification requirements and responsiveness:

The solicitation did not have any minimum qualification requirements.

On December 21, 2023, the proposals from Total Connection Inc. and Waste Connections of Florida Inc. were forwarded to the County Attorney's Office (CAO) for review. The CAO responded on January 8, 2024, and deemed both proposals non-responsive. A copy of the CAO's opinion is attached.

Local Certified Veteran's Business Enterprise Preference:

Veteran's Preference was considered. None of the responsive proposers qualified for the preference.

Office of the Inspector General (OIG) and/or Commission on Ethics and Public Trust (COE) Reports, Findings and/or Enforcement Documentation for Proposer and Subcontractor(s):

Staff submitted a request to OIG on December 15, 2023. A response was received on December 18, 2023. No reports or findings.

Staff submitted a request to COE on December 15, 2023. A response was received on December 19, 2023. No reports or findings.

Office of the Commission Auditor (OCA) Background Check:

Staff submitted Committee member's completed Neutrality Affidavits and Resumes to OCA on December 22, 2023. A response was received on December 28, 2023. No conflicts of interest were identified.

Summary of scores:

The final scores for Zones 1 and 2 are as follows:

ZONE 1				
Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Coastal Waste & Recycling of Florida Inc.	3907	465	4372	\$58,875,907

ZONE 2				
Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Waste Management Inc. of Florida	4097	403	4500	\$59,666,318
Coastal Waste & Recycling of Florida Inc.	3902	475	4377	\$50,055,972

Upon review of the scores for Zone 2, SPD procurement staff identified that the score of one of the Committee members for Waste Management Inc. of Florida's criterion titled *Proposer's Capabilities and Approach to Provide the Services* varied in excess of 33 percent from the average score provided by all members for that criterion. As a result, the Committee member was given the opportunity to provide reason for her score, and after discussions were held by the Committee, the member chose to reconsider her score. At the conclusion of addressing the variance there was no other variance and the final resulting score did not affect the ranking.

The Committee decided not to hold oral presentations.

Local Preference:

Local Preference was considered but did not affect the outcome as the two responsive proposals are both local vendors.

Administrative Leave Eligibility:

The following County employees served as scoring members of the Committee and timely completed all committee-related duties, including submittal of the Neutrality Affidavit within three business days from Selection Committee Coordinator's notification dated December 15, 2023; initial scoring within 30 calendar days of Selection Committee Coordinator's completion of required reviews; and are hereby entitled to one (1) day of paid administrative leave pursuant to Implementing Order No. 3-34:

Employee's Name	Employee's Department
Achaya Kelapanda	DSWM
Danny Diaz	DSWM
Deborah Silver	DSWM
Ana Caveda	WASD
Julie Dick	RER

Negotiations:

The Committee recommends that the County enter into negotiations with Coastal Waste & Recycling of Florida Inc. (Coastal), the sole proposers for Zone 1, and Waste Management Inc. of Florida (Waste Management), the highest ranked proposer for Zone 2. The following individuals will participate in the negotiations:

- Alejandro Garcia, Procurement Contracting Officer II, Strategic Procurement Department.
- Danny Diaz, Administration Assistant Director, DSWM
- Achaya Kelapanda, Operations Deputy Director, DSWM

Technical and operational assistance and feedback will be requested from appropriate staff as needed during the negotiation process.

Consensus Statement:

The Committee recommended Coastal for Zone 1 based on their qualifications, extensive experience, hiring practices, and past performance. The firm has demonstrated, based on the scores, that the firm possesses the needed experience, the capacity, and the capability to provide collecting and transporting recyclable materials from residential units for DSWM.

The Committee recommended Waste Management for Zone 2 based on past performance and qualifications. The firm has demonstrated, based on the scorings, that the firm possesses the capacity and the capability to provide collecting and transporting recyclable materials from residential units for DSWM.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet. Your approval of the Committee's recommendation is requested.

Approved

Namita Uppal, C.P.M.
Director and Chief Procurement Officer

Date

Memorandum



Date: January 8, 2024

To: Alejandro Garcia
Procurement Contracting Officer II
Strategic Procurement Department

From: Melanie Spencer
Assistant County Attorney

Subject: Request for Responsiveness Determination of ENV0000148 Curbside Recycling Collection Program

You have asked this office if proposals received in response to RFP No. ENV0000148 (the “Solicitation”) are responsive. I rely on the information provided in your memorandum dated December 21, 2023. I will address each responsiveness concern raised individually below.

BACKGROUND

The purpose of the Solicitation was for the Department of Solid Waste Management (DSWM) to enter into an agreement for implementing an innovative, productive, and cost-effective curbside recycling collection program in the County's Waste Collection Service Area and certain municipalities. The Proposals were to be evaluated and ranked based on several criteria including but not limited to pricing and experience.

DISCUSSION

Total Connection, Inc.

Section 3.1 of the Solicitation states that “[i]n response to this Solicitation, Proposer should complete and return the entire Proposal Submission Package. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required and submitted in the manner described.” Total Connection, Inc. provided only the fillable online forms: the Bid Submittal Form, the Subcontracting Form and INFORMS Bid Details. Total Connection, Inc. failed to provide the complete Proposal Submission Package, including any pricing as required by the terms of the Solicitation.

The purpose of the competitive bidding process is, among other things, “to secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids.” *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1977). In general, a bid may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. See *Robinson Elec. Co. v. Dade Cnty*, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982). It is established that responses to a solicitation must be capable of assuring the County that, if accepted, the proposal will result in a contract that can be performed in accordance with the requirements of the solicitation. See, e.g., *Glatstein v. City of Miami*, 399 So. 2d 1005, 1007-08 (Fla. 3d DCA 1981). Proposers who propose impermissible exceptions to solicitations do

so at the risk of those exceptions being deemed material to the proposal and having their proposals rejected as non-responsive. Pricing is a material term to the Solicitation and the failure of Total Connection, Inc. to provide the complete Proposal Submission Package, including pricing deprives the County of the assurance that the contract the County is soliciting would be entered into and performed according to the County's specific requirements. Total Connection, Inc is non-responsive.

Waste Connection of Florida, Inc.

In its proposal, Waste Connections of Florida, Inc. ("Waste Connection") added a comment of "home" and "each" next to each proposed price within the Price Proposal Schedule for zone 3. While staff has confirmed that the addition of the word "home" under the "Monthly Cost per Household" column does nothing to alter the proposal as household and home can be considered synonyms, the addition of "each" creates ambiguity. Procurement staff has stated that they are unable to determine if "each" refers to each bin collected or each household. As this addition creates an ambiguity as related to pricing, a material element of the proposal, the County is deprived of the opportunity to be assured that the contract will be performed in a manner consistent with the Solicitation. As such, Waste Connection's proposal as related to Zone 3 is non-responsive.

Waste Management Inc. of Florida

Waste Management Inc. of Florida ("Waste Management") provided one exception in its proposal as related to the cure period provided for default. Waste Management stated that "Contractor takes exception to Article 25 to the extent that cure period is discretionary. Contractor requests that language be included in Article 25 that would provide the contractor with an opportunity to cure a default within 30-days or other reasonable cure period as may be negotiated prior to contract execution. Waste Management Inc. of Florida agrees to work in good faith with Miami-Dade to negotiate a mutually agreeable Contract that is acceptable to both parties." As such, the "exception" listed in Waste Management's proposals is nothing more than contract negotiation issue Waste Management has identified to the County. While the County and Waste Management cannot negotiate contract terms that materially differ from the RFP's specifications, Waste Management's exception as related to the cure period does not materially alter or expressly condition its proposal. Consistent with prior opinions from this office, mere requests in an RFP to negotiate contractual terms with the County do not render a proposal non-responsive.



Melanie J. Spencer

Zone 1

EVN0000148
Curbside Recycling Collection Program
EVALUATION OF PROPOSALS - Zone 1

COMPOSITE

EVALUATION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (all members)	Coastal Waste & Recycling of Florida Inc.
Proposer's Experience and Past Performance		200	1000	870
Key Personnel and Subcontractors Performing Services		150	750	667
Proposers Recruitment and Hiring Practices		100	500	445
Proposer's Capabilities and Approach to Providing the Services		150	750	690
Proposer's Mobilization and Transition Plan		100	500	440
Proposer's Fleet		100	500	370
Proposer's financial capability		100	500	425
Total Technical Points		900	4500	3907
Price Points		100	500	465
TOTAL POINTS		1000.00	5000.00	4372
Ranking				

Signature:

[Signature]

Review Team Coordinator

Reviewer

Print Name:

Alfredo Garcia

Date:

1/23/2024

Print Name:

Alexis I Castro

Date:

1/23/2024

1/24/2024

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 1
Review Team Member: ACHAYA KULAPANDA

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.
Proposer's Experience and Past Performance		200	170
Key Personnel and Subcontractors Performing Services		150	130
Proposers Recruitment and Hiring Practices		100	90
Proposer's Capabilities and Approach to Providing the Services		150	135
Proposer's Mobilization and Transition Plan		100	90
Proposer's Fleet		100	50
Proposer's financial capability		100	85
Proposed Price		100	100

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/23/24

[Signature]
SIGNATURE

1/23/24
DATE

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 1

Review Team Member: Deborah Sorce

EVALUATION CRITERIA	PROPOSERS	
	Maximum Points	Coastal Waste & Recycling of Florida Inc.
Proposer's Experience and Past Performance	200	180
Key Personnel and Subcontractors Performing Services	150	140
Proposers Recruitment and Hiring Practices	100	90
Proposer's Capabilities and Approach to Providing the Services	150	140
Proposer's Mobilization and Transition Plan	100	90
Proposer's Fleet	100	85
Proposer's financial capability	100	90
Proposed Price	100	90

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Proposals.

Deborah Sorce
SIGNATURE

1/23/24
DATE

1/22/2024

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 1

Review Team Member:

Daniel Diaz

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.
Proposer's Experience and Past Performance		200	<i>190</i>
Key Personnel and Subcontractors Performing Services		150	<i>140</i>
Proposers Recruitment and Hiring Practices		100	<i>95</i>
Proposer's Capabilities and Approach to Providing the Services		150	<i>140</i>
Proposer's Mobilization and Transition Plan		100	<i>85</i>
Proposer's Fleet		100	<i>85</i>
Proposer's financial capability		100	<i>90</i>
Proposed Price		100	<i>90</i>

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/22/24

[Signature]
SIGNATURE

1/23/24
DATE

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 1

Review Team Member: Ana T. Caveda

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.
Proposer's Experience and Past Performance		200	150
Key Personnel and Subcontractors Performing Services		150	127
Proposers Recruitment and Hiring Practices		100	75
Proposer's Capabilities and Approach to Providing the Services		150	135
Proposer's Mobilization and Transition Plan		100	80
Proposer's Fleet		100	70
Proposer's financial capability		100	80
Proposed Price		100	95

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/4/2024

Ana T. Caveda

SIGNATURE

1-23-2024

DATE

Julie Dick Score Sheet Zone 1

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 1
Review Team Member: _____

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.
Proposer's Experience and Past Performance		200	180
Key Personnel and Subcontractors Performing Services		150	130
Proposers Recruitment and Hiring Practices		100	95
Proposer's Capabilities and Approach to Providing the Services		150	140
Proposer's Mobilization and Transition Plan		100	95
Proposer's Fleet		100	80
Proposer's financial capability		100	80
Proposed Price		100	90

From: [Dick, Julie \(RER\)](#)
To: [Garcia, Alejandro \(SPD\)](#); [Clerk of the Board \(COC\)](#); [Joseph, Alonzo \(SPD\)](#)
Subject: Zone 1 scoring
Date: Tuesday, January 23, 2024 1:59:59 PM
Attachments: [IMG_0339.jpg](#)

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EVN0000148
Curbside Recycling Collection Program - Zone 1
EVALUATION OF PROPOSALS

Evaluation of scores

FIRM'S NAME	EVALUATION CRITERIA	Maximum Points Per Member	Achaya Kelapanda	Deborah Silver	Danny Diaz	Ana Caveda	Julie Dick	Average	Low Disparity	High Disparity
Coastal Waste & Recycling of Florida Inc.	Proposer's Experience and Past Performance	200	170	180	190	150	180	174.00	116.58	231.42
	Key Personnel and Subcontractors Performing Services	150	130	140	140	127	130	133.40	89.38	177.42
	Proposers Recruitment and Hiring Practices	100	90	90	95	75	95	89.00	59.63	118.37
	Proposer's Capabilities and Approach to Providing the Services	150	135	140	140	135	140	138.00	92.46	183.54
	Proposer's Mobilization and Transition Plan	100	90	90	85	80	95	88.00	58.96	117.04
	Proposer's Fleet	100	50	85	85	70	80	74.00	49.58	98.42
	Proposer's financial capability	100	85	90	90	80	80	85.00	56.95	113.05
	Proposed Price	100	100	90	90	95	90	93.00	62.31	123.69

AGREEMENT

Curbside Recycling Collection Program Contract No. EVN0000148-Z1

THIS AGREEMENT for the provision of a curbside recycling collection program, made and entered into as of this ____ day of _____, 2024 by and between Coastal Waste & Recycling of Florida, Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 6767 NW 74 Ave. Miami, FL 33166 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Contractor has offered to provide curbside recycling collection program services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposal ("RFP") No. EVN0000148 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated December 15, 2023 (the "Contractor's Proposal") which is incorporated herein by reference; and

WHEREAS, the County desires to procure from the Contractor such curbside recycling collection program services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.
- b) The words "Common Carrier/Contracted Carrier" to mean a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering their services to all such as may choose to employ the common carrier and pay their charges.
- c) The word "Contract" or "Agreement" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto, and Contractor's Proposal.
- d) The words "Contract Manager" to mean the Chief Procurement Officer, Strategic Procurement Department, or the duly authorized representative designated to manage the Contract.
- e) The word "Contractor" to mean Coastal Waste & Recycling of Florida, Inc., and its permitted successors.
- f) The word "Days" to mean calendar days.
- g) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.
- h) The words "Developed Works" to mean all rights, title, and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.
- i) The word "Equipment" to mean all machines, vehicles, and containers used for the storage, processing, and transportation of non-hazardous recyclable materials and the contamination.
- j) The words "Licensed Software" to mean the software component(s) provided pursuant to the Contract.

- k) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- l) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- m) The words "Service" or "Services" to mean the provision of curbside recycling collection program services in accordance with the Scope of Services.
- n) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- o) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 50, 2) Appendix A, 3) Appendix B, 4) Appendix C, 5) Miami-Dade County's RFP No. EVN0000148 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The terms "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.
- e) The terms "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.
- f) The titles, headings, captions, and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered, or amended only by a written amendment duly executed by the Parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they

were specifically mentioned, described, and delineated.

- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.
- e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement all changes in providing services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes. The County, at its sole discretion, may consider negotiating the pricing, if the changes have a significant documented impact to the Contractor.

ARTICLE 5. CONTRACT TERM

The Contract shall have two phases as described below:

Phase 1 Preparation

The Contract shall become effective on the date identified on the first page of this agreement. The County anticipates Phase 1 to end on March 31, 2025, unless otherwise mutually agreed upon in writing by both Parties. The Contractor shall obtain all necessary equipment, labor, materials, supplies, licensing, trucks, and other components necessary for or incidental to providing collection services prior to commencement of phase 2. This shall also include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws.

The County prefers the collection vehicles utilized be new at the commencement of service. The Contractor and County shall approve the list of vehicles and equipment to be utilized by Contractor thirty (30) days after the effective date identified on the first page of this agreement. This list shall be in a format approved by the County. Sixty (60) days after the effective date, the Contractor shall facilitate County inspection of the fleet. The County will allow the use of a used fleet up to the maximum seven (7) years useful life of each vehicle. The Contractor shall submit a detailed timeline within one (1) year of the end of useful life for each vehicle to the County for the acquisition of new vehicles and shall update the County every thirty (30) days thereafter. Sixty (60) days prior to the end of each vehicle's useful life, the Contractor shall facilitate County inspection of the replacement fleet. In the event supply chain issues affect the Contractor's ability to secure new fleet prior to end of useful life of each vehicle, at the County's sole discretion, the County may incorporate additional time approved by the County in writing. The County has the right to direct the Contractor to remove any truck from operation and it shall be the Contractor's obligation to ensure services are still provided in accordance with the contract.

Phase 2 Service Period

Phase 2 of the Contract is expected to commence on April 1, 2025, unless otherwise mutually agreed upon by both Parties, and shall continue through the last day of the last month of the eight-year term. The County, at its sole discretion, may renew this Contract for up to two additional two-year terms.

The County may extend this Contract for up to an additional one hundred-eighty (180) calendar days beyond the current Contract period for either Phase, and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners (the "Board").

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by: (i) Registered or Certified Mail, with return receipt requested; (ii) personally by a by courier service; (iii) Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or (iv) via facsimile or e-mail (if provided below) with delivery of hard copy pursuant to (i), (ii), or (iii) in this paragraph. The addresses for such notice are as follows:

(1) To the County

- a) to the Project Manager:

Miami-Dade County

Department of Solid Waste Management
8831 NW 58 ST
Doral, Florida 33178

Attention: Daniel Diaz
Phone: 305-514-6333
E-mail: Danny.Diaz@miamidade.gov

and

- b) to the Contract Manager:

Miami-Dade County
Strategic Procurement Department
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: cpo@miamidade.gov

(2) To the Contractor

- a) to Contract Manager

Coastal Waste & Recycling
2481 NW 2nd Avenue
Boca Raton, FL 33446
Attention: John Casagrande
Phone: 954-444-7457
E-mail: jcasagrande@coastalwasteinc.com

With a copy to: Coastal Waste & Recycling
2481 NW 2nd Avenue
Boca Raton, FL 33446
Attention: Office of General Counsel

- b) to Project Manager

Coastal Waste & Recycling
6767 NW 74 Avenue
Miami, FL 33166
Attention: Eileen Damaso
Phone: 305-343-2731
E-mail: edamaso@coastalwasteinc.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work to be performed under this Contract. The compensation for all Work performed under this Contract, including all costs associated with such Work, shall be paid in accordance with Appendix B. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Work undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Prices, as stipulated in Appendix B, shall remain firm and fixed for the term of the Contract, including any extension periods, except for the adjustments in accordance with the Living Wage Ordinance effective October 1st of each year. Living wage adjustments shall be based on the percentage change of the Living Wage for that year. The Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof.

The Miami-Dade County's Living Wage notices are published at:
<https://www.miamidade.gov/global/business/smallbusiness/living-wage.page>

The Contractor prices shall be inclusive of all costs, charges, and fees involved in providing the specified services. The County may consider price adjustments based on changes to Local, State, or Federal laws at the County's sole discretion. Additional charges of any kind added to the invoices submitted by the Contractor are prohibited.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust (the "Trust"), shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County (the "Code"), the time at which payment shall be due from the County or Trust shall be forty-five (45) calendar days from receipt of a proper invoice. Billings from prime contractors under services and goods contracts with the County or Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1 and 2-8.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

In accordance with Miami-Dade County Implementing Order No. 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

Invoices and associated back-up documentation shall be submitted electronically or in hard copy format by the Contractor to the County as follows:

- Electronic submission (preferred) to: invsubp@miamidade.gov; or
- Hard copy format mailed to: Miami-Dade County
ATTN: Finance Shared Services
111 NW 1st Street, Suite 2620
Miami, FL 33128

Invoice shall include a Bill to Address, which is the County department being invoiced for the services.

Bill to: Department of Solid Waste Management
2525 NW 62 Street, #5100

Miami, FL 33147
Attention: Maria Christian/Jeanmarie Massa

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify, defend and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or Subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Strategic Procurement Division, certificate(s) of insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by Contractor or its employees, agents, servants, partners principals or subcontractors. Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Contractor shall furnish Miami-Dade County 111 NW 1st Street Suite 2340 Miami, Florida 33128, Certificate(s) of Insurance which indicates that insurance coverage has been obtained as outlined below.

- A. Worker's Compensation insurance as required by Florida Statute 440.
- B. Commercial General Liability in an amount not less than \$1,000,000 each occurrence \$2,000,000 aggregate including products/completed operations. **Miami-Dade County must be included as additional insured CG 2037 or CG 2010 11/85 endorsements.**
- C. Automobile Liability covering all owned, non-owned and hired vehicles for a minimum of \$1,000,000 combined single limit.
- D. Professional for a minimum of \$1,000,000 each occurrence \$2,000,000 aggregate covering claims arising out of the rendering or failure to render services or provision of products.
- E. Contractor's Pollution liability \$1,000,000 each occurrence \$2,000,000 in the aggregate.
- F. Umbrella or excess liability \$3,000,000 each occurrence, \$3,000,000 aggregate. This insurance shall apply on an excess basis with terms not more restrictive than underlying B-C coverages.

All insurance shall be written on an occurrence basis, except professional liability which may be written on a claims made basis with a retroactive date no later than the effective date of the agreement.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services and are a member of the Florida Guaranty Fund.

The mailing address of Miami-Dade County as the certificate holder must appear on the certificate of insurance as follows:

**MIAMI-DADE COUNTY
111 NW 1st Street
Suite 2340
Miami FL 33128**

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the certificate of insurance is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall assure that the certificate of insurance required in conjunction with this section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the certificate of insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed certificate of insurance to the County before such expiration. If expired certificate of insurance is/are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificate is/are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorneys' fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.
- c) The Contractor always agrees that it will employ, maintain, and assign to the performance of the Work a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so, directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character, and licenses as necessary to perform the Work described herein, in a competent and professional manner.

- e) The Contractor shall always cooperate with the County and coordinate its respective work efforts to maintain the progress most effectively and efficiently in performing the Work.
- f) The Contractor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment under this contract is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all Work and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the Work performed or Services provided pursuant to this Agreement shall always, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Agreement.

ARTICLE 14. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- d) In the event of such dispute, the Parties authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.
- e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not

the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information regarding such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

- f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the Parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of the Parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its Subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Agreement. The Contractor and its Subcontractors and suppliers shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds within five business days of the Commission Auditor's request. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor needs to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. However, such substitution shall not become effective until the County has approved said substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title, or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The Services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the Subcontractor will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates, and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates, and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Contractor commits an Event of Default (as defined below in Article 24) and fails to cure said Event of Default (as delineated below in Article 25), or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 23(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.

- d) The foregoing notwithstanding, if the Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
 - i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports, and data.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, and includes but is not limited to the following:
 - i. the Contractor has not delivered Deliverables and/or Services on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or

viii. the Contractor fails to comply with Article 39.

- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
 - i. treat such failure as a repudiation and/or material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately, or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the Work upon the Effective Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Contractor shall be liable for all damages resulting from the default, irrespective of whether the County elects to terminate the Agreement, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs; and
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third-party proprietary rights in the performance of the Work.
- b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.
- c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

- d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable Subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).
- e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or Subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and Subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, Subcontractors, and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or Subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) In the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, Subcontractors, or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of the public records laws of the State of Florida (the "Public Records Law").

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the Contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used, or is using, is holding for use, or which are otherwise in the possession of the County (the "Computer Software"). All third-party license agreements must also be honored by the Contractor and its employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the

contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers, and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure, or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure, or removal.

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- b) All Developed Works shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, Subcontractors, or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced, or distributed by or on behalf of the Contractor, or any employee, agent, Subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its Subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its Subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation, or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. SUPPLIER/VENDOR REGISTRATION/CONFLICT OF INTEREST

- a) **Supplier/Vendor Registration**
The Contractor shall be a registered vendor with the County – Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes Contractor's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- Payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes

▪ **Provision of unique identifier in the vendor database used for searching and sorting departmental records**

The Contractor confirms its commitment to comply with the vendor registration requirements and the associated affidavits available in **INFORMS** at <https://supplier.miamidade.gov>.

b) **Conflict of Interest and Code of Ethics**

Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and

employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

As applicable, Contractor shall comply, subject to applicable professional standards, with the provisions of all applicable federal, state and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

- a) Equal Employment Opportunity clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act of 1955, as amended, (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.
- d) The Davis-Bacon Act, as amended (40 U.S.C. §3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics Ordinance".
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).
- k) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).
- l) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".
- m) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".
- n) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".
- o) Any other laws prohibiting wage rate discrimination based on sex.
- p) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".
- q) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

- r) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are "to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs".

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "j" through "o" above.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), and permit(s) for the Contractor prior to authorizing Work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate unlawfully against any employee or applicant for employment on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
- i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an

interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Work to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, Subcontractors, and suppliers will not represent, directly or indirectly, that any Work, Deliverables or Services provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County may terminate this Contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be in Miami-Dade County.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Section 2-8.10 of the Code, this Contract is subject to a user access fee under the County User Access Program ("UAP") in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Contractor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three business days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the Project is situated, no member of the governing body in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 41. LIENS

The Contractor is prohibited from placing a lien on County property. This prohibition shall apply to all Subcontractors.

ARTICLE 42. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the CSSF indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of Contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the First Source Hiring Referral Program are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the Contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records

Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128.

ARTICLE 44. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (<http://www.uscis.gov/e-verify>)

If County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

ARTICLE 45. SURVIVAL

The Parties acknowledge that any of the obligations in this Agreement will survive the term, termination, and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation, or expiration thereof, shall survive termination, cancellation or expiration hereof.

ARTICLE 46. FORCE MAJEURE

Under applicable law, shall refer to an act of nature (such as, but not limited to, a hurricane, flood, and/or earthquake), war, terrorism, riot, sovereign conduct, strikes, lockouts, fires, epidemics and/or pandemic, adverse governmental conditions or conduct of third parties.

Neither the County nor the Contractor shall be held liable or responsible to the counterparty nor be deemed to have defaulted under or breached this Contract for failure or delay in performing any obligation under this Contract when such failure or delay is caused by an act of Force Majeure. Within twenty-four (24) hours of the occurrence of an act of Force Majeure, the affected party shall notify the counterparty of the act by sending an e-mail message to the Project Manager of the other party. In addition, the affected party shall provide to the counterparty within seven days of determining the cause of the Force Majeure, a written explanation via e-mail concerning the circumstances that caused the act of Force Majeure and the overall impacts to the Contract. Upon receipt of the written explanation, the parties shall mutually agree to any contractual modifications as necessary to continue the Contract with minimal impact to County operations. The County maintains the right to terminate the Contract for convenience or obtain the goods and/or services through a separate contract, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 47. LABOR, MATERIALS, AND EQUIPMENT SHALL BE SUPPLIED BY THE CONTRACTOR

The Contractor shall furnish all labor, material and equipment necessary for satisfactory contract performance. When not specifically identified in the Scope of Services, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval by the County. Any equipment furnished hereunder by

Contractor shall remain the property of Contractor.

ARTICLE 48. PERFORMANCE GUARANTEES

Failure to complete the project in accordance with the Scope of Services and to the satisfaction of the County within the time stated shall cause the Contractor to be subject to Performance Guarantees fees in the amount listed below for each. As compensation due the County for loss of use and for additional costs incurred by the County due to such non-completion of the Work, the County shall have the right to deduct the said Performance Guarantees from any amount due, or that may become due to the Contractor under this Agreement, or to invoice the Contractor for such charges if the costs incurred exceed the amount due to the Contractor.

#	Performance Standard Violation	Performance Guarantees Fees
1	Failure to respond to missed collections in the timeframe required in the Agreement.	\$100 per household per occurrence for 1st notification \$250 per household per occurrence for each additional notification Fees are doubled if resident has a Special Assistance designation on file.
2	Failure to correct chronic problems (chronic shall mean three (3) or more similar Legitimate Complaints at the same premises within a ninety (90) day period) in any category of service.	\$250 per occurrence for the 3rd occurrence \$500 per occurrence thereafter Fees are doubled if resident has a Special Assistance designation on file.
3	Failure to collect recyclable materials for any household which has been missed more than three (3) times within a calendar year.	\$100 per household Fees are doubled if resident has a Special Assistance designation on file.
4	Reporting unresolved missed collection or Legitimate Complaint as resolved.	\$250 per occurrence Fees are doubled if resident has a Special Assistance designation on file.
5	Collecting carts that have been tagged for non-collection by County (or Municipal) Enforcement Personnel	\$100 per occurrence.
6	Collection of any carts that are clearly contaminated	\$50 per occurrence
7	Failure to deliver recyclables to the designated site(s).	\$5,000 per occurrence, plus 125% of tipping fee at Designated Disposal Site per ton delivered elsewhere
8	Failure to submit any report, log, or documentation, with the proper content and format, in the timeframe required (i.e. responses to complaint reports.)	\$50 per day that each report, log, or documentation is late
9	Failure to comply with any provisions of this Agreement for which a penalty has not been specified.	\$100 per occurrence per day

ARTICLE 49. PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER

By entering into, amending, or renewing this Contract, including, without limitation a grant agreement or economic incentive program payment agreement (all referred to as "Contract"), as applicable, the common carrier or contracted carrier (collectively referred to as "Carrier" or "Contractor") is obligated to comply with the provisions of Section 908.111, Florida Statutes ("F.S."), "Prohibition against governmental entity contracts with common carriers," etc. as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section 908.111, F.S. apply to this Contract.

This compliance includes Contractor providing an attestation that it is not willfully providing, nor will it willfully provide, any service during the Contract term in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the State of Florida or the United States. This attestation by the

Contractor shall be in the form attached to this Contract as **Appendix C - Common Carrier or Contracted Carrier Attestation Form** and must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. **This Contract shall not be effective unless and until Contractor executes and provides such attestation.**

Additionally, the Contractor acknowledges and agrees that this subsection and the corresponding compliance with the requirements of Section 908.111, F.S., are deemed added to Section 33 of the Contract (**FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS**). The Contractor further affirms that if it is found in violation of the required attestation, or of any requirement of the Contractor set forth in Section 908.111, F.S., such violation shall be just cause for immediate termination of the Contract by the County, without opportunity to cure, and exclusive of any procedures to cure set forth in elsewhere in the Contract for other events of default. Such termination shall be effective on the termination date stated in the written notice provided by the County and Contractor shall take all actions provided in Section 23(e) of this Contract. If County terminates this Agreement for cause under this subsection, County shall retain its rights under Section 23(c)-(d) of the Contract to (1) terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees, and (2) debar Contractor from County contracting in accordance with the County debarment procedures.

ARTICLE 50. LIVING WAGE

Contractor is advised that the provisions of the Code of Miami-Dade County (also known as the Living Wage Ordinance) apply to these services. Contractor agrees to comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, and to acknowledge awareness of the penalties for non-compliance. The selected Contractor shall provide compensation equal to or exceeding the Living Wage benefits, specified in: Section 2-8.9. – Living Wage Ordinance for County Service Contracts and County Employees
https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOOR_CH2AD_ARTIINGE_S2-8.9LIWAORCOSECOCOEM

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date shown on the first page of the Agreement.

Contractor

Miami-Dade County

By:



Name:

Brendon Pantano

Title:

CEO

Date:

March 28, 2024

Attest:



Corporate Secretary/Notary Public

By:

Name:

Daniella Levine Cava

Title:

Mayor

Date:

Attest:

Juan Fernandez-Barquin
Clerk of the Court and Comptroller

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney



APPENDIX A – SCOPE OF SERVICES

2.0 SCOPE OF SERVICES**2.1 Background**

The County is home to approximately 2.7 million residents. The DSWM provides waste disposal facilities for residents countywide through an integrated waste management system consisting of two public landfills, additional contracted landfill capacity, a waste-to-energy plant, and associated ashfill. The solid waste collected in the County is processed in one of three ways: it is incinerated, landfilled, or recycled. According to 2021 State of Florida Department of Environment Protection (FDEP) data, of the 4.58 million tons of solid waste produced by the entire County, 12% is incinerated, 67% is landfilled, and 21% is recycled. The recycling is achieved through a combination of public and private programs. In addition to the current curbside collection program, the County accepts certain recyclable materials at the County's Neighborhood Trash and Recycling Centers, where white goods are collected.

Pertinent to this solicitation, the DSWM operates one of the nation's largest (outsourced) curbside recycling programs servicing, as of July 31, 2023, a total of 364,950 households. Of those, 16,689 are households located in participating municipalities with Interlocal Agreements (receiving weekly or bi-weekly collection service).

The number of households included in the program is expected to continue to grow throughout the term of the proposed contract as reflected in the most recent countywide population projections from the University of Florida Economics and Business Research are as follows:

Year	Projected Miami-Dade County Population
2025	2,992,700
2030	3,128,300
2035	3,234,600

Source: Florida Population Studies Bulletin 189, University of Florida Economics and Business Research

Zones

Under the current collection and hauling agreements, residential recycling collection service is provided in three separate Zones generally described as North (from the Broward line to approximately but not entirely NW 36th Street), Central (from approximately but not entirely NW 36th Street south to approximately the 836 Expressway) and South (the 836 Expressway to south of SW 392 Street). Attachment B provides a map of these areas.

Current Curbside Residential Service Levels

Recyclable materials are collected by private vendors weekly (to residential units in City of South Miami and Miami Beach) and every-other-week (EOW) to all other residential units. All EOW service to County residents is provided on a regular garbage pick-up day. Weekly service to some households is provided on a different day of the week than garbage. Service to County residents will continue to be provided on a garbage pick-up day, unless a mutually agreed schedule is modified by a written amendment duly executed by the Parties. Service to cities is expected to remain as currently delivered. No service will be provided on Christmas day. All other holidays will be treated as normal collection days.

The collection method is Single Stream, typically using one 65-gallon standard issue wheeled and lidded blue recycling cart with the County logo, but carts may vary in size from house to house ranging from 35 gallons to 95 gallons. Additionally, some residential units require 18-gallons bins for manual pick-up services.

Manual Bin Pick-Up

The County currently provides manual 18-gallon bin service as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	1,548	710	16

Multiple Carts

As of December 2022, the number of homes with more than one cart are as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	679	1,217	2,420

Customer Base

Curbside recycling collection services to be provided under this scope are for residential units. The estimated total number of residential units at the end of calendar 2022 are identified below by collection Zone as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	123,385	105,326	136,239

Note: Residential units include single-family households and multi-family dwelling units (duplexes, triplexes, and some cluster homes of four or less dwelling units) designated by DSWM for receiving residential collection services.

Historical Tonnage

The table below provides the estimated tonnage of Single Stream recyclable materials collected in the three Zones in FY 2021. Data provided within the table provides only an approximation of the tonnage that might be expected in each Zone.

Material	Zone 1 (tons)	Zone 2 (tons)	Zone 3 (tons)
Single Stream Recyclables	20,517	18,100	22,934

The composition breakdown of residential curbside recyclable materials in FY 2021 is presented in the following table.

Miami-Dade County Curbside Recycling Program Recyclable Materials Collected in FY 2021 (tons)	
All Papers	30,166
Glass Bottles	5,538
Plastic Bottles	4,922
Ferrous Cans	615
Aluminum Beverage Cans	615
Non-recyclable	19,695
Total	61,551

2.2 Services to be Provided

The Contractor will implement a comprehensive curbside recyclables collection program servicing residential units in Zone 1 defined in Section 2.1. Contractor shall assume total responsibility for all services required, as outlined in this RFP, and shall be the sole point of contact with regard to all project matters. The Contractor must adhere to all directives as mandated by the County. Contractor shall furnish all equipment, labor, materials, supplies, licensing, transportation, and other components necessary to provide collection services as specified herein.

Although this solicitation identifies current service levels/schedules under Section 2.1, the County may, at its option, change collection service levels/schedules for Zones after contract award by formal written communication at least 18 months in advance.

Scope of Services and Requirements

The Contractor will provide a comprehensive, curbside recyclables collection program in Zone 1 as outlined in the table below. County will provide, deploy, and maintain customer carts. Sizes include 95-gallon, 65-gallon, 35-gallon, and 18-gallon manual pick-up. Collection pickup shall occur on a scheduled garbage collection day.

Type of Service: Curbside Residential Recyclables Collection	Level of Service
Every-other-week	Every-other-week (EOW) collection for all residential units as designated by County, except for the City of Miami Beach that will receive weekly services.

2.3 General Requirements

The Contractor must comply with the following general requirements:

- 2.3.1** Shall have (directly or via an approved Subcontractor) a General Hauler Permit pursuant to Section 15.17 of the Miami-Dade County Code, prior to commencement of work.
- 2.3.2** From the time of placement of residential program recyclables at the curbside, such materials shall become the sole property of Miami-Dade County or its authorized agent. No Contractor shall have the right to keep, process, alter, remove or otherwise sell or dispose of any of the residential program recyclables without specific written authorization from the County.
- 2.3.3** All necessary equipment, labor, materials, supplies, licensing, trucks, and other components necessary for or incidental to providing collection services must be ready before the commencement of the services as stipulated in Article 5. This shall include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws.
- 2.3.4** Contractor shall be responsible for safely providing the collection services defined in this RFP and will be required to submit a Safety Plan to the County covering all aspects of operations at time of proposal submittal. The County reserves the right to identify any modifications needed to meet County requirements which the Contractor will be required to resolve to the satisfaction of the County.
- 2.3.5** Contractor shall not combine loads of recyclable materials collected under this RFP with those collected from any customer outside of the awarded Zone without prior written approval of the County.
- 2.3.6** Contractor shall not combine loads of recyclable materials collected this RFP with any other materials not designated by the County as residential program recyclable unless directed by the County in writing. This shall include the collection of commercial recyclable materials.
- 2.3.7** Contractor shall reasonably attempt to identify, through visual observation, hopper cameras, or other technology any materials not designated by the County as residential program recyclables (refer to Attachment C for a list of examples) and/or meeting the definition of Contamination. A cart that is found to have contaminated materials by the Contractor shall not be serviced and shall follow the requirements provided below in Section 2.9 "Collection Procedures and Route Requirements." Additionally, a cart that has been tagged by the County as contaminated shall not be serviced by the Contractor.

2.4 Designated Facility(ies)

Contractor shall deliver all collected recyclable materials to the addresses listed below designated by the County during normal business hours, Monday through Friday, and possibly Saturdays, with the exception of observed holidays. The County reserves the right to change designated facility with ninety (90) calendar days written notice. The Designated Facilities are located within Miami-Dade County. The County, at its sole discretion, may consider negotiating the pricing, if the changes have a significant impact to the Contractor.

Facility Addresses within the jurisdiction of Miami-Dade County:

- Waste Management's Hialeah Transfer Station (5000 NW 37th Ave., Miami, FL 33142) and
- Waste Management's Homestead Transfer Station (11695 SW 328th St., Homestead, FL 33033)

Facility Address outside the jurisdiction of Miami-Dade County:

- Waste Management, Reuter facility located at 20701 Pembroke Rd, Pembroke Pines, FL 33029 (for direct deliveries only).

2.5 Vehicle and Equipment Requirements

Contractor shall purchase and/or lease, operate, maintain and repair all vehicles and equipment necessary to complete the collection services identified in this RFP and perform the contractual duties specified in the subsequent contract. Contractor should account for the following vehicle and equipment requirements in their proposals:

- 2.5.1** The County prefers the collection vehicles utilized be new at the commencement of service. The Contractor and County shall approve the list of vehicles and equipment to be utilized by Contractor thirty (30) days after the effective date of phase 1, as further detailed in Article 5. This list shall be in a format approved by the County. Sixty (60) days after the effective date, the Contractor shall facilitate County inspection of the fleet. The County will allow the use of a used fleet up to the maximum seven (7) years useful life of each vehicle. The Contractor shall submit a detailed timeline within one (1) year of the end of useful life for each vehicle to the County for the acquisition of new vehicles and shall update the County every thirty (30) days thereafter. Sixty (60) days prior to the end of each vehicle's useful life, the Contractor shall facilitate County inspection of the replacement fleet. In the event supply chain issues affect the Contractor's ability to secure new fleet prior to end of useful life of each vehicle, at the County's sole discretion, the County may incorporate additional time approved by the County in writing. The County has the right to direct the Contractor to remove any truck from operation and it shall be the Contractor obligation to ensure services are still provided in accordance with the contract.
- 2.5.2** The collection fleet will be entirely dedicated to the delivery of services provided for in this contract and will not be used by the Contractor for other purposes.
- 2.5.3** All collection vehicles must comply with applicable U.S. Environmental Protection Agency standards, meet industry standards, be fully licensed and insured.
- 2.5.4** GPS telematic technology shall be utilized on collection vehicles for monitoring collection routes and must be real-time with constant access provided to the DSWM.
- 2.5.5** Video recording technology for front, side, and hopper views shall be utilized on collection vehicles and video data generated shall be stored (for a minimum of 180 days) and accessible to the County in real or near real time for purposes of verifying service, verifying safe driving, and checking for Contamination.
- 2.5.6** All vehicles and equipment shall be kept clean, safe, and sanitary at all times of service. Vehicle paint shall be maintained. Contractor shall wash collection vehicles thoroughly on the outside and sanitize them with a suitable disinfectant and deodorant at a minimum of once per week (or more frequently if deemed necessary by the County).
- 2.5.7** All vehicles and equipment shall be in good working condition and be monitored daily to prevent fuel and lubricant leaks or hydraulic oil spills. All spills discovered shall be cleaned up immediately by the Contractor and reported in accordance with County ordinances.
- 2.5.8** Prior to use, a tare weight for all collection vehicles will be established by the County and linked directly to a vehicle identification number. At the time the County established the tare weight, the vehicle shall have no less than one-half tank of fuel, vehicles weighed (empty), decoded, and entered into the County's scalehouse system. At the County's discretion, the tare weight of any collection vehicle may be checked at any time. Any new or replacement vehicles acquired by the Contractor shall follow the same process.
- 2.5.9** Upon award, the Contractor and County shall approve the list of vehicles and equipment to be utilized by Contractor. This list shall be in a format approved by the County.

2.6 Cart Service Requirements

The County shall continue to purchase, deploy, and maintain residential recycling carts.

- 2.6.1** Contractor shall handle all carts in a manner to prevent damage and report any cart in need of service or replacement immediately to the County. All carts shall be thoroughly emptied and returned with lids closed in an upright position to the point where collected, unless conditions warrant otherwise, and placement is approved by the County. Only carts displaying the County logo shall be serviced. Any carts tagged for "no pick-up" by County (or municipality) Code Enforcement personnel shall not be collected. Any carts obviously containing significant Contamination (e.g., open lid with lumber or yard trash) shall not be collected. Locations (either addresses or GPS coordinates) of uncollected carts shall be recorded and transmitted to the County daily.
- 2.6.2** Contractor shall immediately clean up any spillage caused during the collection of curbside recyclables from properly set out carts.

2.7 Personnel Requirements

All personnel to be utilized by Contractor for performing services must meet the following:

- 2.7.1** Perform in a safe, proper, and effective manner, abiding by all applicable regulations and holding all licensures and/or certifications required to perform their designated duties.
- 2.7.2** Wear a uniform bearing the company's name/logo that complies with the Safety Plan to be approved prior to commencement of services.
- 2.7.3** Maintain a neat and professional appearance.
- 2.7.4** Maintain a courteous and respectful attitude toward the public and all customers.
- 2.7.5** At no time shall personnel accept gratuities for any reason from residents for performing services required under the resulting contract.

2.8 Routes and Routing

The collection routes will be created and updated as needed as follows:

- 2.8.1 County will provide the Contractor a list of all households in the Contractor's awarded area in a GIS format (electronically).
- 2.8.2 Contractor will use that data to create routes that meet the requirements of the resulting contract such as operating between designated hours.
- 2.8.3 When final and within 60 days in advance of program implementation, the Contractor will submit the routes (in GIS format) back to the County for approval.
- 2.8.4 Contractor will notify the County of any changes to routes and will similarly transmit such updates to the County 45 days in advance of implementation for approval, allowing DSWM time to notify the homeowner(s) of this change.
- 2.8.5 No route changes are permitted without notice to and approval by the County.

2.9 Collection Procedures and Route Requirements

Contractor shall account for the following collection procedures and routing requirements:

- 2.9.1 Collection of recyclables shall occur on an existing garbage collection service day unless otherwise specified. The County reserves the right to periodically change garbage days of service, which in turn may require the Contractor to adjust its routes to maintain consistency on days of service.
- 2.9.2 Contractor will not collect obviously contaminated carts and will record address or equivalent (precise GPS location) for submission to the County. The County will use the list to reconcile against reports of missed pick-ups (to avoid performance guarantee fees being imposed) and take appropriate enforcement action. This process will be as automated as possible (e.g., driver snaps photo that contains GPS data and is automatically sent to the Department and 311).
- 2.9.3 In the event of a non-collection due to Contamination, the Contractor will leave a "Recycling Contamination" Tag or notice (to be provided by the County, sample provided in Attachment C) in a visible location on the cart.
- 2.9.4 Contractor will not collect carts that have been tagged by County (or municipal) Enforcement personnel for non-collection. The County will reconcile its list of tagged carts against reports of missed pick-ups so as to avoid performance guarantee fees being imposed on the Contractor.
- 2.9.5 In the case of closed/lidded containers being collected, the collector has a hopper camera, and the driver will observe the dump action to identify, and report addresses or GPS locations with contaminated loads to the County for direct follow-up by County enforcement personnel who will be working to enforce County policy regarding Contamination.
- 2.9.6 The Contractor will periodically provide the County with lists of routes it deems to be experiencing higher levels of Contamination, for purposes of assisting the County in its efforts to reduce Contamination.
- 2.9.7 The Contractor must provide and maintain electronic maps of its proposed routes for County approval and verification that all routes can be completed between the hours of 7am and 5pm (local time).
- 2.9.8 Contractor must maintain a Route Specification Packet that includes complete set of collection route street maps (one route per map), individually numbered in sequence geographically from north to south, inclusive of the entire area serviced by the Contractor for curbside collection of recyclable materials, participating municipalities included, at a scale not smaller than 1 inch to 0.075 mile.
- 2.9.9 Each route map shall identify each street, avenue, etc., indicate the day the route is scheduled for collection and the current number of residential units on the route. The Contractor shall also provide revised route maps to the Project Manager within 45 days of any change in the routes, including collection schedule. All changes in routes must be approved by the Project Manager before commencement.

2.10 Performance Requirements

- 2.10.1 It is the County's intent to receive all complaints and requests for service related to this collection operation through its 311 Contact Center and transmit these to the Contractor within 24 hours of receipt. It is not a requirement of this contract for the Contractor to receive any calls directly from the customers. Contractor should direct all calls from any customers to the 311 Contact Center.
- 2.10.2 The County will work with the Contractor to handle complaints on a case-by-case basis by utilizing available information collected by 311 Call Center, RFID tracking, GPS and or video data available. All service complaints reported to the Contractor communicated by the County shall be responded to within twenty-four (24) hours of notification by the County to the Proposer(s) or by the next service day following notification in an appropriate manner. The complaint resolution shall be reported back to the County within an additional twenty-four (24) hours. The Contractor may request from the County, and the County may grant, additional time to remedy a complaint when necessary.
- 2.10.3 Failure to complete any program tasks and services in accordance with the specifications and to the satisfaction of the County shall cause the Contractor to be subject to performance guarantee fees, as stated in Section 2.12 Performance Guarantees.

2.10.4 The repair and/or replacement of damaged property of any kind that can be ascribed to the actions of the Contractor or its employees or Subcontractors, the Contractor shall be responsible for all costs associated with the repair and/or replacement of the damaged property. Contractor shall immediately notify the County of any complaint involving a customer's claim of damage to private property due to actions of the Contractor. And shall promptly repair any legitimate damage claim at its sole expense within a period of time as approved by the County.

2.11 Reporting Requirements

Contractor shall provide to the County the following documents and reports in an electronic format approved by the County in a timely and accurate manner. County shall have the right to have the information revised, validated, or provided on a different format at the County's discretion.

2.11.1 Monthly Performance Reports

Monthly performance reports shall be submitted to the County within fifteen (15) days after the end of each month, and shall at a minimum include the following:

- Number of missed collections and complaints during the month and in the year-to-date (calendar year basis), to include any performance or service challenges.
- Number of non-collection notices placed on customers carts during the month and in the year-to-date (calendar year basis).

2.11.2 Quarterly Household Set Out Rate Reports

Quarterly household set out rate reports shall be submitted to the County within thirty (30) days after the end of the quarter and should include the set-out rate at the household and route level in order to verify the program participation (e.g., A route has 1,000 homes, the cart counter on the truck reports 750 collected, 75% participation/set out).

2.11.3 Annual State of Recycling Reports

Annual state of recycling reports shall be submitted to the County within thirty (30) days of the annual anniversary from the date of the contract effective date. Reports shall, at a minimum, include the following:

- Annualized information for all items required in the Monthly performance reports and quarterly household set out rate reports.
- Current route maps and schedules.
- A complete list of all vehicles and equipment currently utilized including make, type, year, maintenance records, license plate numbers, and Vehicle ID numbers (to include fleet utilized by subcontractors).
- Current Route Specification Packet.
- Implementation of any sustainable, innovative, or green initiatives to minimize environmental impacts from services provided under the contract.

2.12 Possible Future Services

In addition to the services outlined within this Section, the County may seek to add additional recycling collections services to the scope of the contract. They may include, but not be limited to the following: Collecting materials from a drop-off program; Collecting recyclable materials in demonstration or pilot projects; Collecting recyclable materials from multi-residential establishments; Collecting recyclable materials from public facilities; and Service level alternatives in low density areas. Any additional services may be added to the Contract by written supplemental agreements.

APPENDIX B – PRICE SCHEDULE

Price schedule for Every-other-week for Zone 1.

Zone 1

Type of Service:			
Curbside Residential Recyclables Collection	Level of Service	Total Households Estimate	Monthly Cost per Household
Every-other-week	Every-other-week (EOW) collection for all residential units as designated by County, except for the City of Miami Beach that will receive weekly services	118,238	\$3.08
	Weekly services for the City of Miami Beach	5,147	\$6.25
	Manual bin service	1,548	\$6.25
	Additional cart service charge per household (additional carts only)	679	\$1.15

APPENDIX C – COMMON CARRIER OR CONTRACTED CARRIER ATTESTATION FORM

This form must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. Capitalized terms used herein have the definitions ascribed in section 908.111, F.S.

Coastal Waste & Recycling of Florida, Inc. is not willfully providing and will not willfully provide any service during the Contract term in
Common Carrier or Contracted Carrier
furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: Matthew Cowan

Title: Corporate Secretary & General Counsel

Signature: 

Date: March 28, 2024

Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor



Subject: Recommendation to Award a Contract for Curbside Recycling Collection Program - Zone 2

Executive Summary

This contract will provide a recycling program for Miami-Dade County (County) residents through an integrated waste management system. Through this contract, the Department of Solid Waste Management (DSWM) will implement an innovative and productive curbside recycling collection program in the County's Waste Collection Service Area (WCSA) and contracted municipalities, for approximately 363,347 homes. The program includes collecting and transporting recyclable materials from County residents and municipalities within the three zones located in the North (Zone 1), Central (Zone 2), and South (Zone 3) residential areas to the County's designated materials processing facilities.

This item is for the award of a contract for collection of materials within Zone 2 and transportation to designated facilities for processing. The processing and sale of recyclables by the County's service provider will be awarded under a separate contract. Separate agenda items for award of contracts for Zones 1 and 3 are being submitted for approval in parallel with this item, along with an item for processing of recyclable materials. In addition to ensuring residents' recycling needs are met, these contracts will have environmental benefits typically associated with recycling, such as a reduction in fossil fuels and greenhouse gases, conservation of natural resources, a reduction in County landfill airspace usage, and a reduction in pollution impacts from mining, manufacturing, and transportation. Additionally, the vendor agreed to deploy new Compressed Natural Gas (CNG) fleet with the latest technology including GPS telematics and video capabilities within each truck to reduce customer complaints and concerns. Trucks will be replaced with new fleet as they reach the seven years useful life threshold. The contract approval paves the way for a new fleet, poised to improve the service quality by mitigating complaints arising from breakdowns, missed routes, and leaks of oil and fluids throughout the County. Furthermore, the dedicated fleet will decrease recycling contamination, stemming from the use of trucks for other services.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. EVN0000148-Z2, Curbside Recycling Collection Program*, for Zone 2 to Waste Management, Inc. of Florida (WM) for DSWM in the amount of \$56,356,776 for an eight-year term with two, two-year options to renew. This contract will replace *Contract No. RFP545A (Zone 2)*, approved by the Board via Resolution No. R-189-08 for a total of 15 years, including renewals. The contract was extended for two years by the Board via Resolution No. R-199-23 and will expire on March 31, 2025.

Background

A Request for Proposals (RFP) was issued under full and open competition on December 19, 2022. On the closing date of December 15, 2023, the County received proposals from four proposers: i) Coastal Waste & Recycling of Florida, Inc. (Coastal) submitted for Zones 1 and 2; ii) WM submitted for Zone 2; iii) Waste Connections of Florida, Inc. submitted for Zone 3; and iv) Total Connection, Inc. (TCI) only submitted the fillable online forms and failed to submit any technical or pricing information. As such, the Selection Committee had nothing to evaluate and score.

The evaluation of the two responsive proposals for Zone 2 (Coastal and WM) was conducted on January 23, 2024. Negotiations commenced in March 2024, and concluded in April 2024. The RFP closing date

was extended numerous times to allow time to award *Solicitation No. EVN0000147, Processing of Recyclable Materials*, as proposers would need to know the locations where they needed to transport the collected recyclable materials to price their proposals accordingly. The closing date of the RFP for Processing of Recyclable Materials was also extended numerous times to allow time to complete a Recycling Composition Study which provided necessary information for Proposers to prepare and submit accurate price proposals.

On December 21, 2023, the proposal from TCI was forwarded to the County Attorney's Office (CAO) for review. The CAO responded on January 8, 2024, and deemed TCI non-responsive, for failure to submit a complete Proposal Submission Package

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the eight-year term is \$37,571,184. Should the County choose to exercise, at its sole discretion, the two, two-year options to renew, the estimated cumulative value will be \$56,356,776 which includes a 20 percent contingency for anticipated household growth which is expected to increase recyclables and Living Wage adjustments for the duration of the contract. The current contract is valued at \$63,527,500 for a 17-year term which includes a two-year extension and expires on March 31, 2025. The annualized allocation under the proposed contract is higher than the current contract due to increases in pricing and the number of households since 2008. For example, every-other-week collection services per household started at \$1.92 per month in 2008. The current cost for the same services per household is \$3.00, and the new cost under this contract will remain the same per month. The new cost represents an increase of 56 percent since inception of the contract in 2008. In general, the Living Wage rates with health benefits have increased 57 percent since 2008. Additionally, the number of households in Zone 2 has increased approximately 10 percent since 2008. County households are expected to increase by 8 percent over the life of the contract.

Department	Allocation	Funding Source	Contract Manager
DSWM	\$56,356,776	Proprietary Funds	Karina Careaga
Total	\$56,356,776		

Track Record/Monitor

Jonathan Desverguñat of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to execute the agreement and exercise all provisions of the contract, including any cancellation, renewals, or extensions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Waste Management, Inc. of Florida	800 Capitol Street Suite 3000 Houston, TX	8801 NW 91 Street Medley, FL	571	David M. Myhan
			12%	

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Coastal Waste & Recycling of Florida, Inc.	Yes	Evaluation Scores/Ranking
Total Connection, Inc.	Yes	Deemed non-responsive by the CAO (opinion attached)

Due Diligence

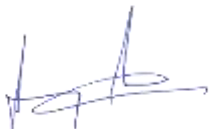
Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues through various vendor responsibility lists and a keyword internet search. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, hiring a consultant to ensure that the recycling industry's best practices were incorporated, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department. The scope of services was updated to include a preference for a new environmentally friendly fleet of vehicles at contract commencement, GPS and video recording capabilities within the vehicles to mitigate customer complaints/concerns, geographical redistribution of the zones, and additional options for collection schedules.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program applies.
- The Small Business Enterprise Selection Factor and Local Preference applied.
- The Living Wage Ordinance applies.

Attachment



Jimmy Morales
Chief Operating Officer

Memorandum



Date: February 2, 2024

To: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Thru: Jessica Tyrrell, MBA CPPB *jlt*
Division Director
Strategic Procurement Department

From: Alejandro Garcia
Procurement Contracting Officer II *Alejandro Garcia*
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for RFP No. EVN0000148 Curbside Recycling Collection Program

The Strategic Procurement Department (SPD) issued a competitive Request for Proposals on December 19, 2022, on behalf of Department of Solid Waste Management (DSWM), to obtain proposals from qualified firms to implement an innovative, productive, and cost-effective curbside recycling collection program in the County's Waste Collection Service Area (WCSA) and certain municipalities. This program includes collecting and transporting recyclable materials from residential units within three Zones to the County's Designated Materials Processing Facilities. The County anticipates awarding up to three contracts, one for each Zone, for an eight-year term, with two, two-year options to renew.

On December 15, 2023, four proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of the sole responsive proposal for Zone 1 and two responsive proposals for Zone 2 following the guidelines published in the solicitation. There were no responsive proposals received for Zone 3.

Competitive Selection Committee meeting dates:

January 4, 2024 (Kick-off Meeting)

January 23, 2024 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:

A Small Business Enterprise selection factor was assigned to this solicitation. The responsive proposers did not qualify for the selection factor.

Verification of compliance with minimum qualification requirements and responsiveness:

The solicitation did not have any minimum qualification requirements.

On December 21, 2023, the proposals from Total Connection Inc. and Waste Connections of Florida Inc. were forwarded to the County Attorney's Office (CAO) for review. The CAO responded on January 8, 2024, and deemed both proposals non-responsive. A copy of the CAO's opinion is attached.

Local Certified Veteran's Business Enterprise Preference:

Veteran's Preference was considered. None of the responsive proposers qualified for the preference.

Office of the Inspector General (OIG) and/or Commission on Ethics and Public Trust (COE) Reports, Findings and/or Enforcement Documentation for Proposer and Subcontractor(s):

Staff submitted a request to OIG on December 15, 2023. A response was received on December 18, 2023. No reports or findings.

Staff submitted a request to COE on December 15, 2023. A response was received on December 19, 2023. No reports or findings.

Office of the Commission Auditor (OCA) Background Check:

Staff submitted Committee member's completed Neutrality Affidavits and Resumes to OCA on December 22, 2023. A response was received on December 28, 2023. No conflicts of interest were identified.

Summary of scores:

The final scores for Zones 1 and 2 are as follows:

ZONE 1				
Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Coastal Waste & Recycling of Florida Inc.	3907	465	4372	\$58,875,907

ZONE 2				
Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Waste Management Inc. of Florida	4097	403	4500	\$59,666,318
Coastal Waste & Recycling of Florida Inc.	3902	475	4377	\$50,055,972

Upon review of the scores for Zone 2, SPD procurement staff identified that the score of one of the Committee members for Waste Management Inc. of Florida's criterion titled *Proposer's Capabilities and Approach to Provide the Services* varied in excess of 33 percent from the average score provided by all members for that criterion. As a result, the Committee member was given the opportunity to provide reason for her score, and after discussions were held by the Committee, the member chose to reconsider her score. At the conclusion of addressing the variance there was no other variance and the final resulting score did not affect the ranking.

The Committee decided not to hold oral presentations.

Local Preference:

Local Preference was considered but did not affect the outcome as the two responsive proposals are both local vendors.

Administrative Leave Eligibility:

The following County employees served as scoring members of the Committee and timely completed all committee-related duties, including submittal of the Neutrality Affidavit within three business days from Selection Committee Coordinator's notification dated December 15, 2023; initial scoring within 30 calendar days of Selection Committee Coordinator's completion of required reviews; and are hereby entitled to one (1) day of paid administrative leave pursuant to Implementing Order No. 3-34:

Employee's Name	Employee's Department
Achaya Kelapanda	DSWM
Danny Diaz	DSWM
Deborah Silver	DSWM
Ana Caveda	WASD
Julie Dick	RER

Negotiations:

The Committee recommends that the County enter into negotiations with Coastal Waste & Recycling of Florida Inc. (Coastal), the sole proposers for Zone 1, and Waste Management Inc. of Florida (Waste Management), the highest ranked proposer for Zone 2. The following individuals will participate in the negotiations:

- Alejandro Garcia, Procurement Contracting Officer II, Strategic Procurement Department.
- Danny Diaz, Administration Assistant Director, DSWM
- Achaya Kelapanda, Operations Deputy Director, DSWM

Technical and operational assistance and feedback will be requested from appropriate staff as needed during the negotiation process.

Consensus Statement:

The Committee recommended Coastal for Zone 1 based on their qualifications, extensive experience, hiring practices, and past performance. The firm has demonstrated, based on the scores, that the firm possesses the needed experience, the capacity, and the capability to provide collecting and transporting recyclable materials from residential units for DSWM.

The Committee recommended Waste Management for Zone 2 based on past performance and qualifications. The firm has demonstrated, based on the scorings, that the firm possesses the capacity and the capability to provide collecting and transporting recyclable materials from residential units for DSWM.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet. Your approval of the Committee's recommendation is requested.

Approved

Namita Uppal, C.P.M.
Director and Chief Procurement Officer

Date

Memorandum



Date: January 8, 2024

To: Alejandro Garcia
Procurement Contracting Officer II
Strategic Procurement Department

From: Melanie Spencer
Assistant County Attorney

Subject: Request for Responsiveness Determination of ENV0000148 Curbside Recycling Collection Program

You have asked this office if proposals received in response to RFP No. ENV0000148 (the “Solicitation”) are responsive. I rely on the information provided in your memorandum dated December 21, 2023. I will address each responsiveness concern raised individually below.

BACKGROUND

The purpose of the Solicitation was for the Department of Solid Waste Management (DSWM) to enter into an agreement for implementing an innovative, productive, and cost-effective curbside recycling collection program in the County's Waste Collection Service Area and certain municipalities. The Proposals were to be evaluated and ranked based on several criteria including but not limited to pricing and experience.

DISCUSSION

Total Connection, Inc.

Section 3.1 of the Solicitation states that “[i]n response to this Solicitation, Proposer should complete and return the entire Proposal Submission Package. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required and submitted in the manner described.” Total Connection, Inc. provided only the fillable online forms: the Bid Submittal Form, the Subcontracting Form and INFORMS Bid Details. Total Connection, Inc. failed to provide the complete Proposal Submission Package, including any pricing as required by the terms of the Solicitation.

The purpose of the competitive bidding process is, among other things, “to secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids.” *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1977). In general, a bid may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. See *Robinson Elec. Co. v. Dade Cnty*, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982). It is established that responses to a solicitation must be capable of assuring the County that, if accepted, the proposal will result in a contract that can be performed in accordance with the requirements of the solicitation. See, e.g., *Glatstein v. City of Miami*, 399 So. 2d 1005, 1007-08 (Fla. 3d DCA 1981). Proposers who propose impermissible exceptions to solicitations do

so at the risk of those exceptions being deemed material to the proposal and having their proposals rejected as non-responsive. Pricing is a material term to the Solicitation and the failure of Total Connection, Inc. to provide the complete Proposal Submission Package, including pricing deprives the County of the assurance that the contract the County is soliciting would be entered into and performed according to the County's specific requirements. Total Connection, Inc is non-responsive.

Waste Connection of Florida, Inc.

In its proposal, Waste Connections of Florida, Inc. ("Waste Connection") added a comment of "home" and "each" next to each proposed price within the Price Proposal Schedule for zone 3. While staff has confirmed that the addition of the word "home" under the "Monthly Cost per Household" column does nothing to alter the proposal as household and home can be considered synonyms, the addition of "each" creates ambiguity. Procurement staff has stated that they are unable to determine if "each" refers to each bin collected or each household. As this addition creates an ambiguity as related to pricing, a material element of the proposal, the County is deprived of the opportunity to be assured that the contract will be performed in a manner consistent with the Solicitation. As such, Waste Connection's proposal as related to Zone 3 is non-responsive.

Waste Management Inc. of Florida

Waste Management Inc. of Florida ("Waste Management") provided one exception in its proposal as related to the cure period provided for default. Waste Management stated that "Contractor takes exception to Article 25 to the extent that cure period is discretionary. Contractor requests that language be included in Article 25 that would provide the contractor with an opportunity to cure a default within 30-days or other reasonable cure period as may be negotiated prior to contract execution. Waste Management Inc. of Florida agrees to work in good faith with Miami-Dade to negotiate a mutually agreeable Contract that is acceptable to both parties." As such, the "exception" listed in Waste Management's proposals is nothing more than contract negotiation issue Waste Management has identified to the County. While the County and Waste Management cannot negotiate contract terms that materially differ from the RFP's specifications, Waste Management's exception as related to the cure period does not materially alter or expressly condition its proposal. Consistent with prior opinions from this office, mere requests in an RFP to negotiate contractual terms with the County do not render a proposal non-responsive.



Melanie J. Spencer

Zone 2

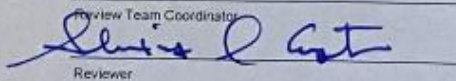
EVN0000148
Curbside Recycling Collection Program
EVALUATION OF PROPOSALS - Zone 2

COMPOSITE

EVALUATION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (all members)	Coastal Waste & Recycling of Florida Inc.	Waste Management Inc. of Florida
Proposer's Experience and Past Performance		200	1000	870	910
Key Personnel and Subcontractors Performing Services		150	750	667	678
Proposers Recruitment and Hiring Practices		100	500	440	448
Proposer's Capabilities and Approach to Providing the Services		150	750	690	686
Proposer's Mobilization and Transition Plan		100	500	445	445
Proposer's Fleet		100	500	365	465
Proposer's financial capability		100	500	425	465
Total Technical Points		900	4500	3902	4097
Price Points		100	500	475	403
TOTAL POINTS		1000.00	5000.00	4377	4500
Ranking					

Signature:


Review Team Coordinator


Reviewer

Print Name:

Alejandro Garcia

Date:

1/23/24

Print Name:

Alexis I Castro

Date:

1/25/2024

Initial variance in excess of 33%

FIRM'S NAME	EVALUATION CRITERIA	Maximum Points Per Member	Achaya Kelapanda	Deborah Silver	Danny Diaz	Ana Caveda	Julie Dick	Average	Low Disparity	High Disparity
Coastal Waste & Recycling of Florida Inc.	Proposer's Experience and Past Performance	200	170	180	190	150	180	174.00	116.58	231.42
	Key Personnel and Subcontractors Performing Services	150	130	140	140	127	130	133.40	89.38	177.42
	Proposers Recruitment and Hiring Practices	100	90	90	90	75	95	88.00	58.96	117.04
	Proposer's Capabilities and Approach to Providing the Services	150	135	140	140	135	140	138.00	92.46	183.54
	Proposer's Mobilization and Transition Plan	100	90	90	90	80	95	89.00	59.63	118.37
	Proposer's Fleet	100	50	85	80	70	80	73.00	48.91	97.09
	Proposer's financial capability	100	85	90	90	80	80	85.00	56.95	113.05
	Proposed Price	100	100	90	100	95	90	95.00	63.65	126.35
Waste Management Inc. of Florida	Proposer's Experience and Past Performance	200	180	170	190	190	180	182.00	121.94	242.06
	Key Personnel and Subcontractors Performing Services	150	130	130	135	143	140	135.60	90.85	180.35
	Proposers Recruitment and Hiring Practices	100	90	90	90	98	80	89.60	60.03	119.17
	Proposer's Capabilities and Approach to Providing the Services	150	135	85	130	146	140	127.20	85.22	169.18
	Proposer's Mobilization and Transition Plan	100	90	85	90	95	85	89.00	59.63	118.37
	Proposer's Fleet	100	100	90	90	95	90	93.00	62.31	123.69
	Proposer's financial capability	100	95	90	90	95	95	93.00	62.31	123.69
	Proposed Price	100	78	80	80	85	80	80.60	54.00	107.20

No variances after discussions

EVN0000148
Curbside Recycling Collection Program - Zone 2
EVALUATION OF PROPOSALS

Evaluation of scores

FIRMS NAME	EVALUATION CRITERIA	Maximum Points Per Member	Achaya Kelapanda	Deborah Silver	Danny Diaz	Ana Caveda	Julie Dick	Average	Low Disparity	High Disparity
Coastal Waste & Recycling of Florida Inc.	Proposer's Experience and Past Performance	200	170	180	190	150	180	174.00	116.58	231.42
	Key Personnel and Subcontractors Performing Services	150	130	140	140	127	130	133.40	89.38	177.42
	Proposers Recruitment and Hiring Practices	100	90	90	90	75	95	88.00	58.96	117.04
	Proposer's Capabilities and Approach to Providing the Services	150	135	140	140	135	140	138.00	92.46	183.54
	Proposer's Mobilization and Transition Plan	100	90	90	90	80	95	89.00	59.63	118.37
	Proposer's Fleet	100	50	85	80	70	80	73.00	48.91	97.09
Waste Management Inc. of Florida	Proposer's financial capability	100	85	90	90	80	80	85.00	56.95	113.05
	Proposed Price	100	100	90	100	95	90	95.00	63.65	126.35
	Proposer's Experience and Past Performance	200	180	170	190	190	180	182.00	121.94	242.06
	Key Personnel and Subcontractors Performing Services	150	130	130	135	143	140	135.60	90.85	180.35
	Proposers Recruitment and Hiring Practices	100	90	90	90	98	80	89.60	60.03	119.17
	Proposer's Capabilities and Approach to Providing the Services	150	135	135	130	146	140	137.20	91.92	182.48
	Proposer's Mobilization and Transition Plan	100	90	85	90	95	85	89.00	59.63	118.37
	Proposer's Fleet	100	100	90	90	95	90	93.00	62.31	123.69
	Proposer's financial capability	100	95	90	90	95	95	93.00	62.31	123.69
	Proposed Price	100	78	80	80	85	80	80.60	54.00	107.20

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 2

Review Team Member: ACHAYA KELAPANDA

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.	Waste Management Inc. of Florida
Proposer's Experience and Past Performance		200	170	180
Key Personnel and Subcontractors Performing Services		150	130	130
Proposers Recruitment and Hiring Practices		100	90	90
Proposer's Capabilities and Approach to Providing the Services		150	135	135
Proposer's Mobilization and Transition Plan		100	90	90
Proposer's Fleet		100	50	100
Proposer's financial capability		100	85	95
Proposed Price		100	100	78

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/23/24

SIGNATURE

1/23/24
DATE

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 2

Review Team Member:

Daniel Diaz

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.	Waste Management Inc. of Florida
Proposer's Experience and Past Performance		200	190	190
Key Personnel and Subcontractors Performing Services		150	140	135
Proposers Recruitment and Hiring Practices		100	90	90
Proposer's Capabilities and Approach to Providing the Services		150	140	130
Proposer's Mobilization and Transition Plan		100	90	90
Proposer's Fleet		100	80	90
Proposer's financial capability		100	90	90
Proposed Price		100	100	80

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/23/24

SIGNATURE

DATE

1/23/24

895

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 2

Review Team Member: Ana T. Caveda

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.	Waste Management Inc. of Florida
Proposer's Experience and Past Performance		200	150	190
Key Personnel and Subcontractors Performing Services		150	127	143
Proposers Recruitment and Hiring Practices		100	75	98
Proposer's Capabilities and Approach to Providing the Services		150	135	146
Proposer's Mobilization and Transition Plan		100	80	95
Proposer's Fleet		100	70	95
Proposer's financial capability		100	80	95
Proposed Price		100	95	85

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/4/2024

Ana T. Caveda

SIGNATURE

1-28-2024

DATE

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 2

Review Team Member: Deborah Silver

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.	Waste Management Inc. of Florida
Proposer's Experience and Past Performance		200	180	170
Key Personnel and Subcontractors Performing Services		150	140	130
Proposers Recruitment and Hiring Practices		100	90	90
Proposer's Capabilities and Approach to Providing the Services		150	140 DS ~~90~~	135 DS ~~90~~
Proposer's Mobilization and Transition Plan		100	90	85
Proposer's Fleet		100	85	90
Proposer's financial capability		100	90	90
Proposed Price		100	90	80

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/23/24

Deborah Silver
SIGNATURE

1/23/24
DATE

Scanned from my iPhone

Julie Dick Score Sheet Zone 2

EVN0000148
CURBSIDE RECYCLING COLLECTION PROGRAM
EVALUATION OF PROPOSALS
Zone 2
Review Team Member: _____

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Coastal Waste & Recycling of Florida Inc.	Waste Management Inc. of Florida
Proposer's Experience and Past Performance		200	180	180
Key Personnel and Subcontractors Performing Services		150	130	140
Proposers Recruitment and Hiring Practices		100	95	80
Proposer's Capabilities and Approach to Providing the Services		150	140	140
Proposer's Mobilization and Transition Plan		100	95	85
Proposer's Fleet		100	80	90
Type text here Proposer's financial capability		100	80	95
Proposed Price		100	90	80

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

1/23/23 /s: Julie Dick 1/23/23

SIGNATURE DATE

From: [Dick, Julie \(RER\)](#)
To: [Garcia, Alejandro \(SPD\)](#); [Joseph, Alonzo \(SPD\)](#); [Clerk of the Board \(COC\)](#)
Subject: Zone 2 scoring
Date: Tuesday, January 23, 2024 2:59:30 PM
Attachments: [IMG_0340.jpg](#)

Get [Outlook for iOS](#)

AGREEMENT

Curbside Recycling Collection Program Contract No. EVN0000148-Z2

THIS AGREEMENT for the provision of a curbside recycling collection program, made and entered into as of this ____ day of _____, 2024 by and between Waste Management Inc. of Florida, a corporation organized and existing under the laws of the State of Florida, having its principal office at 8801 NW 91 Street, Medley, FL 33178 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Contractor has offered to provide curbside recycling collection program services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposal ("RFP") No. EVN0000148 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated December 15, 2023 (the "Contractor's Proposal") which is incorporated herein by reference; and

WHEREAS, the County desires to procure from the Contractor such curbside recycling collection program services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.
- b) The words "Common Carrier/Contracted Carrier" to mean a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering their services to all such as may choose to employ the common carrier and pay their charges.
- c) The word "Contract" or "Agreement" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto, and Contractor's Proposal.
- d) The words "Contract Manager" to mean the Chief Procurement Officer, Strategic Procurement Department, or the duly authorized representative designated to manage the Contract.
- e) The word "Contractor" to mean Waste Management Inc. of Florida and its permitted successors.
- f) The word "Days" to mean calendar days.
- g) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.
- h) The words "Developed Works" to mean all rights, title, and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.
- i) The word "Equipment" to mean all machines, vehicles, and containers used for the storage, processing, and transportation of non-hazardous recyclable materials and the contamination.
- j) The words "Licensed Software" to mean the software component(s) provided pursuant to the Contract.
- k) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.

- l) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- m) The words "Service" or "Services" to mean the provision of curbside recycling collection program services in accordance with the Scope of Services.
- n) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- o) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 50, 2) Appendix A, 3) Appendix B, 4) Appendix C, 5) Miami-Dade County's RFP No. EVN0000148 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The terms "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.
- e) The terms "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.
- f) The titles, headings, captions, and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered, or amended only by a written amendment duly executed by the Parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described, and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.

- e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement all changes in providing services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes. The County, at its sole discretion, may consider negotiating the pricing, if the changes have a significant documented impact to the Contractor.

ARTICLE 5. CONTRACT TERM.

The Contract shall have two phases as described below:

Phase 1 Preparation

The Contract shall become effective on the date identified on the first page of this agreement. The County anticipates Phase 1 to end on March 31, 2025, unless otherwise mutually agreed upon in writing by both Parties. The Contractor shall obtain all necessary equipment, labor, materials, supplies, licensing, trucks, and other components necessary for or incidental to providing collection services prior to commencement of phase 2. This shall also include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws.

The County prefers the collection vehicles utilized be new at the commencement of service but acknowledges and agrees that Contractor shall be given sixteen (16) months from commencement of the agreement to obtain, and put into service, new compressed natural gas (CNG) collection vehicles. The selected Contractor shall submit a detailed timeline within 30 days of the commencement of the Preparation phase to the County for the acquisition of vehicles and shall update the County every 30 days thereafter. Sixty (60) days prior to the commencement of the Service phase, the Contractor shall facilitate County inspection of the fleet. In the event supply chain issues affect the Contractor's ability to secure new fleet prior to commencement of services, at the County's sole discretion, Contractor may incorporate used fleet for the additional time approved by the County in writing. The County has the right to direct the Contractor to remove any truck from operation and it shall be the Contractor obligation to ensure services are still provided in accordance with the resulting contract.

Phase 2 Service Period

Phase 2 of the Contract is expected to commence on April 1, 2025, unless otherwise mutually agreed upon by both Parties, and shall continue through the last day of the last month of the eight-year term. The County, at its sole discretion, may renew this Contract for up to two additional two-year terms.

The County may extend this Contract for up to an additional one hundred-eighty (180) calendar days beyond the current Contract period for either Phase, and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners (the "Board").

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by: (i) Registered or Certified Mail, with return receipt requested; (ii) personally by a by courier service; (iii) Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or (iv) via facsimile or e-mail (if provided below) with delivery of hard copy pursuant to (i), (ii), or (iii) in this paragraph. The addresses for such notice are as follows:

(1) To the County

- a) to the Project Manager:

Miami-Dade County
Department of Solid Waste Management
8831 NW 58 ST
Doral, Florida 33178

Attention: Daniel Diaz

Phone: 305-514-6333
E-mail: Danny.Diaz@miamidade.gov

and

b) to the Contract Manager:

Miami-Dade County
Strategic Procurement Department
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: cpo@miamidade.gov

(2) To the Contractor

Waste Management Inc., of Florida
Attention : David M. Myhan
1800 N. Military Trail, Suite 201
Boca Raton, FL 3343
Phone : (954) 984-2012
E-mail : DMyhan@wm.com

With copy to :
Lisa Silva, Asst. Secretary
LSilva@wm.com

And to:
Jason Neal, Government Affairs Director
jneal2@wm.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work to be performed under this Contract. The compensation for all Work performed under this Contract, including all costs associated with such Work, shall be paid in accordance with Appendix B. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Work undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Prices, as stipulated in Appendix B, shall remain firm and fixed for the term of the Contract, including any extension periods, except for the adjustments in accordance with the Living Wage Ordinance effective October 1st of each year. Living wage adjustments shall be based on the percentage change of the Living Wage for that year. The Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof.

The Miami-Dade County's Living Wage notices are published at:
<https://www.miamidade.gov/global/business/smallbusiness/living-wage.page>

The Contractor prices shall be inclusive of all costs, charges, and fees involved in providing the specified services. The County may consider price adjustments based on changes to Local, State, or Federal laws at the County's sole discretion. Additional charges of any kind added to the invoices submitted by the Contractor are prohibited.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust (the "Trust"), shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County (the "Code"), the time at which payment shall be due from the County or Trust shall be forty-five (45) calendar days from receipt of a proper invoice. Billings from prime contractors under services and goods contracts with the County or Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1 and 2-8.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

In accordance with Miami-Dade County Implementing Order No. 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

Invoices and associated back-up documentation shall be submitted electronically or in hard copy format by the Contractor to the County as follows:

- Electronic submission (preferred) to: invsbup@miamidade.gov; or
- Hard copy format mailed to: Miami-Dade County
ATTN: Finance Shared Services
111 NW 1st Street, Suite 2620
Miami, FL 33128

Invoice shall include a Bill to Address, which is the County department being invoiced for the services.

Bill to: Department of Solid Waste Management
2525 NW 62 Street, #5100
Miami, FL 33147
Attention: Maria Christian/Jeanmarie Massa

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify, defend and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or Subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Strategic Procurement Division, certificate(s) of insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by Contractor or its employees, agents, servants, partners principals or subcontractors. Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Contractor shall furnish Miami-Dade County 111 NW 1st Street Suite 2340 Miami, Florida 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained as outlined below.

- A. Worker's Compensation insurance as required by Florida Statute 440.
- B. Commercial General Liability in an amount not less than \$1,000,000 each occurrence \$2,000,000 aggregate including products/completed operations. **Miami-Dade County must be included as additional insured CG 2037 or CG 2010 11/85 endorsements.**
- C. Automobile Liability covering all owned, non-owned and hired vehicles for a minimum of \$1,000,000 combined single limit.
- D. Professional for a minimum of \$1,000,000 each occurrence \$2,000,000 aggregate covering claims arising out of the rendering or failure to render services or provision of products.
- E. Contractor's Pollution liability \$1,000,000 each occurrence \$2,000,000 in the aggregate.
- F. Umbrella or excess liability \$3,000,000 each occurrence, \$3,000,000 aggregate. This insurance shall apply on an excess basis with terms not more restrictive than underlying B-C coverages.

All insurance shall be written on an occurrence basis, except professional liability which may be written on a claims made basis with a retroactive date no later than the effective date of the agreement.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services and are a member of the Florida Guaranty Fund.

The mailing address of Miami-Dade County as the certificate holder must appear on the certificate of insurance as follows:

**MIAMI-DADE COUNTY
111 NW 1st Street
Suite 2340
Miami FL 33128**

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the certificate of insurance is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall assure that the certificate of insurance required in conjunction with this section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the certificate of insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed certificate of insurance to the County before such expiration. If expired certificate of insurance is/are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificate is/are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorneys' fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.
- c) The Contractor always agrees that it will employ, maintain, and assign to the performance of the Work a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so, directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character, and licenses as necessary to perform the Work described herein, in a competent and professional manner.
- e) The Contractor shall always cooperate with the County and coordinate its respective work efforts to maintain the progress most effectively and efficiently in performing the Work.

- f) The Contractor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment under this contract is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all Work and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the Work performed or Services provided pursuant to this Agreement shall always, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Agreement.

ARTICLE 14. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- d) In the event of such dispute, the Parties authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.
- e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review,

or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information regarding such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

- f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the Parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of the Parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its Subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Agreement. The Contractor and its Subcontractors and suppliers shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds within five business days of the Commission Auditor's request. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor needs to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. However, such substitution shall not become effective until the County has approved said substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title, or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The Services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the Subcontractor will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates, and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates, and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Contractor commits an Event of Default (as defined below in Article 24) and fails to cure said Event of Default (as delineated below in Article 25), or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material

misstatement.

- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 23(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) The foregoing notwithstanding, if the Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
 - i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports, and data.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, and includes but is not limited to the following:
 - i. the Contractor has not delivered Deliverables and/or Services on a timely basis;

- ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or
 - viii. the Contractor fails to comply with Article 39.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation and/or material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately, or this Agreement with the County may be terminated. Notwithstanding, the County shall allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the Work upon the Effective Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Contractor shall be liable for all damages resulting from the default, irrespective of whether the County elects to terminate the Agreement, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs; and
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third-party proprietary rights in the performance of the Work.
- b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.
- c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable Subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).
- e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or Subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and Subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, Subcontractors, and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or Subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) In the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive

relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, Subcontractors, or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of the public records laws of the State of Florida (the "Public Records Law").

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the Contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used, or is using, is holding for use, or which are otherwise in the possession of the County (the "Computer Software"). All third-party license agreements must also be honored by the Contractor and its employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers, and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure, or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure, or removal.

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- b) All Developed Works shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, Subcontractors, or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced, or distributed by or on behalf of the Contractor, or any employee, agent, Subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its Subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its Subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such

Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation, or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. SUPPLIER/VENDOR REGISTRATION/CONFLICT OF INTEREST

a) **Supplier/Vendor Registration**

The Contractor shall be a registered vendor with the County – Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes Contractor's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- **Identification of individual account records**
- **Payments to individual/Contractor for goods and services provided to Miami-Dade County**
- **Tax reporting purposes**
- **Provision of unique identifier in the vendor database used for searching and sorting departmental records**

The Contractor confirms its commitment to comply with the vendor registration requirements and the associated affidavits available in **INFORMS** at <https://supplier.miamidade.gov>.

b) **Conflict of Interest and Code of Ethics**

Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

As applicable, Contractor shall comply, subject to applicable professional standards, with the provisions of all applicable federal, state and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

- a) Equal Employment Opportunity clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act of 1955, as amended, (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.

- d) The Davis-Bacon Act, as amended (40 U.S.C. § 3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics Ordinance".
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).
- k) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).
- l) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".
- m) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".
- n) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".
- o) Any other laws prohibiting wage rate discrimination based on sex.
- p) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".
- q) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).
- r) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are "to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs".

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "j" through "o" above.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), and permit(s) for the Contractor prior to authorizing Work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate unlawfully against any employee or applicant for employment on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Work to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, Subcontractors, and suppliers will not represent, directly or indirectly, that any Work, Deliverables or Services provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County may terminate this Contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be in Miami-Dade County.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)**a) User Access Fee**

Pursuant to Section 2-8.10 of the Code, this Contract is subject to a user access fee under the County User Access Program ("UAP") in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Contractor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three business days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the Project is situated, no member of the governing body in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 41. LIENS

The Contractor is prohibited from placing a lien on County property. This prohibition shall apply to all Subcontractors.

ARTICLE 42. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the CSSF indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of Contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the First Source Hiring Referral Program are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the Contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128.

ARTICLE 44. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (<http://www.uscis.gov/e-verify>)

If County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

ARTICLE 45. SURVIVAL

The Parties acknowledge that any of the obligations in this Agreement will survive the term, termination, and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation, or expiration thereof, shall survive termination, cancellation or expiration hereof.

ARTICLE 46. FORCE MAJEURE

Under applicable law, shall refer to an act of nature (such as, but not limited to, a hurricane, flood, and/or earthquake), war, terrorism, riot, sovereign conduct, strikes, lockouts, fires, epidemics and/or pandemic, adverse governmental conditions or conduct of third parties.

Neither the County nor the Contractor shall be held liable or responsible to the counterparty nor be deemed to have defaulted under or breached this Contract for failure or delay in performing any obligation under this Contract when such failure or delay is caused by an act of Force Majeure. Within twenty-four (24) hours of the occurrence of an act of Force Majeure, the affected party shall notify the counterparty of the act by sending an e-mail message to the Project Manager of the other party. In addition, the affected party shall provide to the counterparty within seven days of determining the cause of the Force Majeure, a written explanation via e-mail concerning the circumstances that caused the act of Force Majeure and the overall impacts to the Contract. Upon receipt of the written explanation, the parties shall mutually agree to any contractual modifications as necessary to continue the Contract with minimal impact to County operations. The County maintains the right to terminate the Contract for convenience or obtain the goods and/or services through a separate contract, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 47. LABOR, MATERIALS, AND EQUIPMENT SHALL BE SUPPLIED BY THE CONTRACTOR

The Contractor shall furnish all labor, material and equipment necessary for satisfactory contract performance. When not specifically identified in the Scope of Services, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval by the County. Any equipment furnished hereunder by Contractor shall remain the property of Contractor.

ARTICLE 48. PERFORMANCE GUARANTEES

Failure to complete the project in accordance with the Scope of Services and to the satisfaction of the County within the time stated shall cause the Contractor to be subject to Performance Guarantees fees in the amount listed below for each. As compensation due the County for loss of use and for additional costs incurred by the County due to such non-completion of the Work, the County shall have the right to deduct the said Performance Guarantees from any amount due, or that may become due to the Contractor under this Agreement, or to invoice the Contractor for such charges if the costs incurred exceed the amount due to the Contractor.

#	Performance Standard Violation	Performance Guarantees Fees
1	Failure to respond to missed collections in the timeframe required in the Agreement.	\$100 per household per occurrence for 1st notification. \$250 per household per occurrence for each additional notification. Fees are doubled if resident has a Special Assistance designation on file.
2	Failure to correct chronic problems (chronic shall mean three (3) or more similar Legitimate Complaints at the same premises within a ninety (90) day period) in any category of service.	\$250 per occurrence for the 3rd occurrence. \$500 per occurrence thereafter. Fees are doubled if resident has a Special Assistance designation on file.
3	Failure to collect recyclable materials for any household which has been missed more than three (3) times within a calendar year.	\$100 per household. Fees are doubled if resident has a Special Assistance designation on file.
4	Reporting unresolved missed collection or Legitimate Complaint as resolved.	\$250 per occurrence. Fees are doubled if resident has a Special Assistance designation on file.
5	Collecting carts that have been tagged for non-collection by County (or Municipal) Enforcement Personnel	\$100 per occurrence.
6	Collection of any carts that are clearly contaminated	\$50 per occurrence
7	Failure to deliver recyclables to the designated site(s).	\$5,000 per occurrence, plus 125% of tipping fee at Designated Disposal Site per ton delivered elsewhere
8	Failure to submit any report, log, or documentation, with the proper content and format, in the timeframe required (i.e. responses to complaint reports.)	\$50 per day that each report, log, or documentation is late
9	Failure to comply with any provisions of this Agreement for which a penalty has not been specified.	\$100 per occurrence per day

ARTICLE 49. PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER

By entering into, amending, or renewing this Contract, including, without limitation a grant agreement or economic incentive program payment agreement (all referred to as "Contract"), as applicable, the common carrier or contracted carrier (collectively referred to as "Carrier" or "Contractor") is obligated to comply with the provisions of Section 908.111, Florida Statutes ("F.S."), "Prohibition against governmental entity contracts with common carriers," etc. as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section 908.111, F.S. apply to this Contract.

This compliance includes Contractor providing an attestation that it is not willfully providing, nor will it willfully provide, any service during the Contract term in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the State of Florida or the United States. This attestation by the Contractor shall be in the form attached to this Contract as **Appendix C - Common Carrier or Contracted Carrier Attestation Form** and must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. **This Contract shall not be effective unless and until Contractor executes and provides such attestation.**

Additionally, the Contractor acknowledges and agrees that this subsection and the corresponding compliance with the requirements of Section 908.111, F.S., are deemed added to Section 33 of the Contract (**FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS**). The Contractor further affirms that if it is found in violation of the required attestation, or of any requirement of the Contractor set forth in Section 908.111, F.S., such violation shall be just cause for immediate termination of the Contract by the County,

without opportunity to cure, and exclusive of any procedures to cure set forth in elsewhere in the Contract for other events of default. Such termination shall be effective on the termination date stated in the written notice provided by the County and Contractor shall take all actions provided in Section 23(e) of this Contract. If County terminates this Agreement for cause under this subsection, County shall retain its rights under Section 23(c)-(d) of the Contract to (1) terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees, and (2) debar Contractor from County contracting in accordance with the County debarment procedures.

ARTICLE 50. LIVING WAGE

As allowed by all applicable laws, Contractor is advised that the provisions of the Code of Miami-Dade County (also known as the Living Wage Ordinance) apply to these services. Contractor agrees to comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, and to acknowledge awareness of the penalties for non-compliance. The selected Contractor shall provide compensation equal to or exceeding the Living Wage benefits, specified in: Section 2-8.9. – Living Wage Ordinance for County Service Contracts and County Employees

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.9LIWAORCOSECOEM

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date shown on the first page of the Agreement.

Contractor

Miami-Dade County

By:



Name:

David M. Myhan

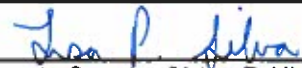
Title:

President

Date:

April 9, 2024

Attest:



Asst. Corporate Secretary/Notary Public
LISA P. SILVA, ASST. SEC.

By:

Name:

Daniella Levine Cava

Title:

Mayor

Date:

Attest:

Juan Fernandez-Barquin
Clerk of the Court and Comptroller

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney



APPENDIX A – SCOPE OF SERVICES

2.0 SCOPE OF SERVICES**2.1 Background**

The County is home to approximately 2.7 million residents. The DSWM provides waste disposal facilities for residents countywide through an integrated waste management system consisting of two public landfills, additional contracted landfill capacity, a waste-to-energy plant, and associated ashfill. The solid waste collected in the County is processed in one of three ways: it is incinerated, landfilled, or recycled. According to 2021 State of Florida Department of Environment Protection (FDEP) data, of the 4.58 million tons of solid waste produced by the entire County, 12% is incinerated, 67% is landfilled, and 21% is recycled. The recycling is achieved through a combination of public and private programs. In addition to the current curbside collection program, the County accepts certain recyclable materials at the County's Neighborhood Trash and Recycling Centers, where white goods are collected.

Pertinent to this solicitation, the DSWM operates one of the nation's largest (outsourced) curbside recycling programs servicing, as of July 31, 2023, a total of 364,950 households. Of those, 16,689 are households located in participating municipalities with Interlocal Agreements (receiving weekly or bi-weekly collection service).

The number of households included in the program is expected to continue to grow throughout the term of the proposed contract as reflected in the most recent countywide population projections from the University of Florida Economics and Business Research are as follows:

Year	Projected Miami-Dade County Population
2025	2,992,700
2030	3,128,300
2035	3,234,600

Source: Florida Population Studies Bulletin 189, University of Florida Economics and Business Research

Zones

Under the current collection and hauling agreements, residential recycling collection service is provided in three separate Zones generally described as North (from the Broward line to approximately but not entirely NW 36th Street), Central (from approximately but not entirely NW 36th Street south to approximately the 836 Expressway) and South (the 836 Expressway to south of SW 392 Street). Attachment B provides a map of these areas. The parties agree that any additions to the service Zone are limited to new Residences consisting solely of single-family, duplex, tri-plex and cluster homes of four or fewer dwelling units and shall be further limited to those Residences in the existing unincorporated areas of the Zone and the municipalities currently serviced through the existing curbside collection program, unless both parties agree to inclusion of other Residences, at rates to be negotiated.

Current Curbside Residential Service Levels

Recyclable materials are collected by private vendors weekly (to residential units in City of South Miami and Miami Beach) and every-other-week (EOW) to all other residential units. All EOW service to County residents is provided on a regular garbage pick-up day. Weekly service to some households is provided on a different day of the week than garbage. Service to County residents will continue to be provided on a garbage pick-up day, unless a mutually agreed schedule is modified by a written amendment duly executed by the Parties. The parties hereby understand that the Contractor has agreed to the County's request for negotiated pricing that is contingent upon the ability of the Contractor to make service day changes to the collection schedule, including but not limited to adding Wednesday as a regular collection day, along with the existing approved collection days of Monday, Tuesday, Thursday, and Friday. The parties further agree that the schedule changes are anticipated to change the service days of approximately 24,000 homes in the service area. Service to cities is expected to remain as currently delivered. No service will be provided on Christmas day. All other holidays will be treated as normal collection days.

The collection method is Single Stream, typically using one 65-gallon standard issue wheeled and lidded blue recycling cart with the County logo, but carts may vary in size from house to house ranging from 35 gallons to 95 gallons. Additionally, some residential units require 18-gallons bins for manual pick-up services.

Manual Bin Pick-Up

The County currently provides manual 18-gallon bin service as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	1,548	710	16

Multiple Carts

As of December 2022, the number of homes with more than one cart are as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	679	1,217	2,420

Customer Base

Curbside recycling collection services to be provided under this scope are for residential units. The estimated total number of residential units at the end of calendar 2022 are identified below by collection Zone as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	123,385	105,326	136,239

Note: Residential units include single-family households and multi-family dwelling units (duplexes, triplexes, and some cluster homes of four or less dwelling units) designated by DSWM for receiving residential collection services.

Historical Tonnage

The table below provides the estimated tonnage of Single Stream recyclable materials collected in the three Zones in FY 2021. Data provided within the table provides only an approximation of the tonnage that might be expected in each Zone.

Material	Zone 1 (tons)	Zone 2 (tons)	Zone 3 (tons)
Single Stream Recyclables	20,517	18,100	22,934

The composition breakdown of residential curbside recyclable materials in FY 2021 is presented in the following table.

Miami-Dade County Curbside Recycling Program Recyclable Materials Collected in FY 2021 (tons)	
All Papers	30,166
Glass Bottles	5,538
Plastic Bottles	4,922
Ferrous Cans	615
Aluminum Beverage Cans	615
Non-recyclable	19,695
Total	61,551

2.2 Services to be Provided

The Contractor will implement a comprehensive curbside recyclables collection program servicing residential units in the Zone 2 defined in Section 2.1. Contractor shall assume total responsibility for all services required, as outlined in this RFP, and shall be the sole point of contact with regard to all project matters. The Contractor must adhere to all directives as mandated by the County. Contractor shall

furnish all equipment, labor, materials, supplies, licensing, transportation, and other components necessary to provide collection services as specified herein.

Although this solicitation identifies current service levels/schedules under Section 2.1, the County may, at its option, change collection service levels/schedules for Zones after contract award by formal written communication at least 18 months in advance.

Scope of Services and Requirements

The Contractor will provide a comprehensive, curbside recyclables collection program in Zone 2 as outlined in the table below. County will provide, deploy, and maintain customer carts. Sizes include 95-gallon, 65-gallon, 35-gallon, and 18-gallon manual pick-up. Collection pickup shall occur on a scheduled garbage collection day.

Type of Service: Curbside Residential Recyclables Collection	Level of Service
Every-other-week	Every-other-week (EOW) collection for all residential units as designated by County.

2.3 General Requirements

The Contractor must comply with the following general requirements:

- 2.3.1 Shall have (directly or via an approved Subcontractor) a General Hauler Permit pursuant to Section 15.17 of the Miami-Dade County Code, prior to commencement of work.
- 2.3.2 From the time of placement of residential program recyclables at the curbside, such materials shall become the sole property of Miami-Dade County or its authorized agent. No Contractor shall have the right to keep, process, alter, remove or otherwise sell or dispose of any of the residential program recyclables without specific written authorization from the County.
- 2.3.3 All necessary equipment, labor, materials, supplies, licensing, trucks, and other components necessary for or incidental to providing collection services must be ready before the commencement of the services as stipulated in Article 5. This shall include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws.
- 2.3.4 Contractor shall be responsible for safely providing the collection services defined in this RFP and will be required to submit a Safety Plan to the County covering all aspects of operations at time of proposal submittal. The County reserves the right to identify any modifications needed to meet County requirements which the Contractor will be required to resolve to the satisfaction of the County.
- 2.3.5 Contractor shall not combine loads of recyclable materials collected under this RFP with those collected from any customer outside of the awarded Zone without prior written approval of the County.
- 2.3.6 Contractor shall not combine loads of recyclable materials collected this RFP with any other materials not designated by the County as residential program recyclable unless directed by the County in writing. This shall include the collection of commercial recyclable materials.
- 2.3.7 Contractor shall reasonably attempt to identify, through visual observation, hopper cameras, or other technology any materials not designated by the County as residential program recyclables (refer to Attachment C for a list of examples) and/or meeting the definition of Contamination. A cart that is found to have contaminated materials by the Contractor shall not be serviced and shall follow the requirements provided below in Section 2.9 "Collection Procedures and Route Requirements." Additionally, a cart that has been tagged by the County as contaminated shall not be serviced by the Contractor.

2.4 Designated Facility(ies)

Contractor shall deliver all collected recyclable materials to the addresses listed below designated by the County during normal business hours, Monday through Friday, and possibly Saturdays, with the exception of observed holidays. The County reserves the right to change designated facility with ninety (90) calendar days written notice. The Designated Facilities are located within Miami-Dade County. The County, at its sole discretion, may consider negotiating the pricing, if the changes have a significant impact to the Contractor.

Facility Addresses within the jurisdiction of Miami-Dade County:

- Waste Management's Hialeah Transfer Station (5000 NW 37th Ave., Miami, FL 33142) and
- Waste Management's Homestead Transfer Station (11695 SW 328th St., Homestead, FL 33033)

Facility Address outside the jurisdiction of Miami-Dade County:

- Waste Management, Reuter facility located at 20701 Pembroke Rd, Pembroke Pines, FL 33029 (for direct deliveries only).

2.5 Vehicle and Equipment Requirements

Contractor shall purchase and/or lease, operate, maintain and repair all vehicles and equipment necessary to complete the collection services identified in this RFP and perform the contractual duties specified in the subsequent contract. Contractor should account for the following vehicle and equipment requirements in their proposals:

- 2.5.1 The County prefers the collection vehicles utilized be new at the commencement of service. The Contractor shall submit a detailed timeline within 30 days of the commencement of the preparation phase to the County for the acquisition of vehicles and shall update the County every 30 days thereafter. Sixty (60) days prior to the commencement of the service phase, the Contractor shall facilitate County inspection of the fleet. In the event supply chain issues affect the Contractor's ability to secure new fleet prior to commencement of services, at the County's sole discretion, may incorporate temporary modifications into the final contract provisions and terms which may include used fleet. The County has the right to direct the Contractor to remove any truck from operation and it shall be the Contractor obligation to ensure services are still provided in accordance with the resulting contract.
- 2.5.2 The collection fleet will be entirely dedicated to the delivery of services provided for in this contract and will not be used by the Contractor for other purposes.
- 2.5.3 All collection vehicles must comply with applicable U.S. Environmental Protection Agency standards, meet industry standards, be fully licensed and insured.
- 2.5.4 GPS telematic technology shall be utilized on collection vehicles for monitoring collection routes and must be real-time with constant access provided to the DSWM.
- 2.5.5 Video recording technology for front, side, and hopper views shall be utilized on collection vehicles and video data generated shall be stored (for a minimum of 180 days) and accessible to the County in real or near real time for purposes of verifying service, verifying safe driving, and checking for Contamination.
- 2.5.6 All vehicles and equipment shall be kept clean, safe, and sanitary at all times of service. Vehicle paint shall be maintained. Contractor shall wash collection vehicles thoroughly on the outside and sanitize them with a suitable disinfectant and deodorant at a minimum of once per week (or more frequently if deemed necessary by the County).
- 2.5.7 All vehicles and equipment shall be in good working condition and be monitored daily to prevent fuel and lubricant leaks or hydraulic oil spills. All spills discovered shall be cleaned up immediately by the Contractor and reported in accordance with County ordinances.
- 2.5.8 Prior to use, a tare weight for all collection vehicles will be established by the County and linked directly to a vehicle identification number. At the time the County established the tare weight, the vehicle shall have no less than one-half tank of fuel, vehicles weighed (empty), decoded, and entered into the County's scalehouse system. At the County's discretion, the tare weight of any collection vehicle may be checked at any time. Any new or replacement vehicles acquired by the Contractor shall follow the same process.
- 2.5.9 Upon award, the Contractor and County shall approve the list of vehicles and equipment to be utilized by Contractor. This list shall be in a format approved by the County.

2.6 Cart Service Requirements

The County shall continue to purchase, deploy, and maintain residential recycling carts.

- 2.6.1 Contractor shall handle all carts in a manner to prevent damage and report any cart in need of service or replacement immediately to the County. All carts shall be thoroughly emptied and returned with lids closed in an upright position to the point where collected, unless conditions warrant otherwise, and placement is approved by the County. Only carts displaying the County logo shall be serviced. Any carts tagged for "no pick-up" by County (or municipality) Code Enforcement personnel shall not be collected. Any carts obviously containing significant Contamination (e.g., open lid with lumber or yard trash) shall not be collected. Locations (either addresses or GPS coordinates) of uncollected carts shall be recorded and transmitted to the County daily.
- 2.6.2 Contractor shall immediately clean up any spillage caused during the collection of curbside recyclables from properly set out carts.

2.7 Personnel Requirements

All personnel to be utilized by Contractor for performing services must meet the following:

- 2.7.1 Perform in a safe, proper, and effective manner, abiding by all applicable regulations and holding all licensures and/or certifications required to perform their designated duties.
- 2.7.2 Wear a uniform bearing the company's name/logo that complies with the Safety Plan to be approved prior to commencement of services.
- 2.7.3 Maintain a neat and professional appearance.
- 2.7.4 Maintain a courteous and respectful attitude toward the public and all customers.
- 2.7.5 At no time shall personnel accept gratuities for any reason from residents for performing services required under the resulting contract.

2.8 Routes and Routing

The collection routes will be created and updated as needed as follows:

- 2.8.1 County will provide the Contractor a list of all households in the Contractor's awarded area in a GIS format (electronically).
- 2.8.2 Contractor will use that data to create routes that meet the requirements of the resulting contract such as operating between designated hours.
- 2.8.3 When final and within 60 days in advance of program implementation, the Contractor will submit the routes (in GIS format) back to the County for approval.
- 2.8.4 Contractor will notify the County of any changes to routes and will similarly transmit such updates to the County 45 days in advance of implementation for approval, allowing DSWM time to notify the homeowner(s) of this change.
- 2.8.5 No route changes are permitted without notice to and approval by the County.

2.9 Collection Procedures and Route Requirements

Contractor shall account for the following collection procedures and routing requirements:

- 2.9.1 Collection of recyclables shall occur on an existing garbage collection service day unless otherwise specified. The County reserves the right to periodically change garbage days of service, which in turn may require the Contractor to adjust its routes to maintain consistency on days of service.
- 2.9.2 Contractor will not collect obviously contaminated carts and will record address or equivalent (precise GPS location) for submission to the County. The County will use the list to reconcile against reports of missed pick-ups (to avoid performance guarantee fees being imposed) and take appropriate enforcement action. This process will be as automated as possible (e.g., driver snaps photo that contains GPS data and is automatically sent to the Department and 311).
- 2.9.3 In the event of a non-collection due to Contamination, the Contractor will leave a "Recycling Contamination" Tag or notice (to be provided by the County, sample provided in Attachment C) in a visible location on the cart.
- 2.9.4 Contractor will not collect carts that have been tagged by County (or municipal) Enforcement personnel for non-collection. The County will reconcile its list of tagged carts against reports of missed pick-ups so as to avoid performance guarantee fees being imposed on the Contractor.
- 2.9.5 In the case of closed/lidded containers being collected, the collector has a hopper camera, and the driver will observe the dump action to identify and report addresses or GPS locations with contaminated loads to the County for direct follow-up by County enforcement personnel who will be working to enforce County policy regarding Contamination.
- 2.9.6 The Contractor will periodically provide the County with lists of routes it deems to be experiencing higher levels of Contamination, for purposes of assisting the County in its efforts to reduce Contamination.
- 2.9.7 The Contractor must provide and maintain electronic maps of its proposed routes for County approval and verification that all routes can be completed between the hours of 7am and 5pm (local time).
- 2.9.8 Contractor must maintain a Route Specification Packet that includes complete set of collection route street maps (one route per map), individually numbered in sequence geographically from north to south, inclusive of the entire area serviced by the Contractor for curbside collection of recyclable materials, participating municipalities included, at a scale not smaller than 1 inch to 0.075 mile.
- 2.9.9 Each route map shall identify each street, avenue, etc., indicate the day the route is scheduled for collection and the current number of residential units on the route. The Contractor shall also provide revised route maps to the Project Manager within 45 days of any change in the routes, including collection schedule. All changes in routes must be approved by the Project Manager before commencement.

2.10 Performance Requirements

- 2.10.1 It is the County's intent to receive all complaints and requests for service related to this collection operation through its 311 Contact Center and transmit these to the Contractor within 24 hours of receipt. It is not a requirement of this contract for the

Contractor to receive any calls directly from the customers. Contractor should direct all calls from any customers to the 311 Contact Center.

- 2.10.2** The County will work with the Contractor to handle complaints on a case-by-case basis by utilizing available information collected by 311 Call Center, RFID tracking, GPS and or video data available. All service complaints reported to the Contractor communicated by the County shall be responded to within twenty-four (24) hours of notification by the County to the Proposer(s) or by the next service day following notification in an appropriate manner. The complaint resolution shall be reported back to the County within an additional twenty-four (24) hours. The Contractor may request from the County, and the County may grant, additional time to remedy a complaint when necessary.
- 2.10.3** Failure to complete any program tasks and services in accordance with the specifications and to the satisfaction of the County shall cause the Contractor to be subject to performance guarantee fees, as stated in Section 2.12 Performance Guarantees.
- 2.10.4** The repair and/or replacement of damaged property of any kind that can be ascribed to the actions of the Contractor or its employees or Subcontractors, the Contractor shall be responsible for all costs associated with the repair and/or replacement of the damaged property. Contractor shall immediately notify the County of any complaint involving a customer's claim of damage to private property due to actions of the Contractor. And shall promptly repair any legitimate damage claim at its sole expense within a period of time as approved by the County.

2.11 Reporting Requirements

Contractor shall provide to the County the following documents and reports in an electronic format approved by the County in a timely and accurate manner. County shall have the right to have the information revised, validated, or provided on a different format at the County's discretion.

2.11.1 Monthly Performance Reports

Monthly performance reports shall be submitted to the County within fifteen (15) days after the end of each month, and shall at a minimum include the following:

- Number of missed collections and complaints during the month and in the year-to-date (calendar year basis), to include any performance or service challenges.
- Number of non-collection notices placed on customers carts during the month and in the year-to-date (calendar year basis).

2.11.2 Quarterly Household Set Out Rate Reports

Quarterly household set out rate reports shall be submitted to the County within thirty (30) days after the end of the quarter and should include the set-out rate at the household and route level in order to verify the program participation (e.g., A route has 1,000 homes, the cart counter on the truck reports 750 collected, 75% participation/set out).

2.11.3 Annual State of Recycling Reports

Annual state of recycling reports shall be submitted to the County within thirty (30) days of the annual anniversary from the date of the contract effective date. Reports shall, at a minimum, include the following:

- Annualized information for all items required in the Monthly performance reports and quarterly household set out rate reports.
- Current route maps and schedules.
- A complete list of all vehicles and equipment currently utilized including make, type, year, maintenance records, license plate numbers, and Vehicle ID numbers (to include fleet utilized by subcontractors).
- Current Route Specification Packet.
- Implementation of any sustainable, innovative, or green initiatives to minimize environmental impacts from services provided under the contract.

2.12 Possible Future Services

In addition to the services outlined within this Section, the County may seek to add additional recycling collections services to the scope of the contract. They may include, but not be limited to the following: Collecting materials from a drop-off program; Collecting recyclable materials in demonstration or pilot projects; Collecting recyclable materials from multi-residential establishments; Collecting recyclable materials from public facilities; and, Service level alternatives in low density areas. Any additional services may be added to the Contract by written supplemental agreements. Any such additional services shall be subject to negotiations and agreement by both parties.

APPENDIX B – PRICE SCHEDULE

Price schedule for Every-other-week for Zone 2.

Zone 2

Type of Service:			
Curbside Residential Recyclables Collection	Level of Service	Total Households Estimate	Monthly Cost per Household
Option 1 - Every-other-week	Every-other-week (EOW) collection for all residential units as designated by County, except for the City of South Miami that will receive weekly services	102,477	\$3.00
	Manual bin service	710	\$5.00
	Weekly services for the City of South Miami	2,849	\$5.00
	Additional cart service charge per household (additional carts only)	1,217	\$0.75

APPENDIX C – COMMON CARRIER OR CONTRACTED CARRIER ATTESTATION FORM

This form must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. Capitalized terms used herein have the definitions ascribed in section 908.111, F.S.

Waste Management Inc. of Florida

Common Carrier or Contracted Carrier

_____ is not willfully providing and will not willfully provide any service during the Contract term in furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: David M. Myhan

Title: President

Signature:



Date: April 9, 2024

Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Recommendation for a Non-Competitive Designated Purchase for Curbside Recycling Collection Program - Zone 3

Executive Summary

This contract will provide a recycling program for Miami-Dade County (County) residents through an integrated waste management system. Through this contract the Department of Solid Waste Management (DSWM) will implement an innovative and productive curbside recycling collection program in the County's Waste Collection Service Area (WCSA) and contracted municipalities, for approximately 363,347 homes. The program includes collecting and transporting recyclable materials from County residents and municipalities within the three zones located in the North (Zone 1), Central (Zone 2), and South (Zone 3) residential areas to the County's designated materials processing facilities.

This item is for the award of a contract for collection of materials within Zone 3 and transportation to designated facilities for processing. The processing and sale of recyclables by the County's service provider will be awarded under a separate contract. Separate agenda items for award of contracts for Zones 1 and 2 are being submitted for approval in parallel with this item, along with an item for processing of recyclable materials. In addition to ensuring residents' recycling needs are met, these contracts will have environmental benefits typically associated with recycling, such as a reduction in fossil fuels and greenhouse gases, conservation of natural resources, a reduction in County landfill airspace usage, and a reduction in pollution impacts from mining, manufacturing, and transportation. The contract also includes the use of a new fleet with the latest technology including GPS telematics and video capabilities in each truck to reduce customer complaints and concerns. Trucks will be replaced with a new fleet as they reach the seven years useful life threshold. The contract approval paves the way for a new fleet, poised to improve the service quality by mitigating complaints arising from breakdowns, missed routes, and leaks of oil and fluids throughout the County. Furthermore, the dedicated fleet will decrease recycling contamination, stemming from the use of trucks for other services.

The sole proposer that could be evaluated for Zone 3 was deemed non-responsive by the County Attorney's Office (CAO). Since no other proposal was received for this zone, and to avoid disruption of services, waiving competition to award this contract to the sole proposer, Waste Connections of Florida, Inc, is recommended. The negotiated agreement maintains the terms and conditions of the advertised solicitation.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve this request for a non-competitive designated purchase pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code, by a two-thirds vote of the Board members present, and award *Contract No. EVN0000148-Z3, Curbside Recycling Collection Program*, for Zone 3 to Waste Connections of Florida, Inc. for DSWM in the amount of \$91,511,960 for an eight-year term, with two, two-year options to renew. This contract will replace *Contract No. RFP545C (Zone 3)*, approved by the Board via Resolution No. R-189-08 for a total of 15 years, including renewals. The contract was extended for two years by the Board via Resolution No. R-199-23 and will expire on March 31, 2025.

Background

A Request for Proposals (RFP) was issued under full and open competition on December 19, 2022. On the closing date of December 15, 2023, the County received proposals from four proposers: i) Coastal Waste & Recycling of Florida, Inc. submitted for Zones 1 and 2; ii) Waste Management, Inc. of Florida submitted for Zone 2; iii) Waste Connections of Florida, Inc. submitted for Zone 3; and iv) Total Connection, Inc. (TCI) only submitted the fillable online forms and failed to submit any technical or pricing information. As such, the Selection Committee had nothing to evaluate and score.

The RFP closing date was extended numerous times to allow time to complete the *Solicitation No. EVN0000147, Processing of Recyclable Materials* as proposers would need to know the locations where they needed to transport the collected recyclable materials to price their proposals accordingly. The closing date of RFP for Processing of Recyclable Materials was also extended numerous times to allow time to complete a Recycling Composition Study which provided necessary information for Proposers to prepare and submit accurate price proposals.

On December 21, 2023, two proposals, TCI and Waste Connections of Florida, Inc., were forwarded to the CAO for review. The CAO responded on January 8, 2024, and deemed both proposals non-responsive. TCI failed to submit a complete Proposal Submission Package, and Waste Connections of Florida, Inc. altered the bid pricing form, creating ambiguity regarding pricing. The Strategic Procurement Department (SPD) and DSWM determined that moving forward with negotiations with Waste Connections of Florida, Inc. was in the best interest of the County. Negotiations commenced in February 2024, and concluded in March 2024.

Approval of a designated purchase is requested because despite the proposal having material defects, it was submitted in response to a competitive solicitation and the County desired to negotiate with the proposer to ensure continuity of services starting in April 2025. Readvertising this solicitation does not guarantee an increased number of responses for this particular zone as market research conducted revealed no other vendor has the capacity or interest in providing the required services for this zone. Furthermore, the vendors providing the services under this contract will need to complete acquisition of their fleet by commencement of the contract in April 2025. The current supply chain time for acquisition of the necessary vehicles is beyond one year.

Accordingly, it is in the County's best interest to award this designated purchase contract pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code to purchase a curbside recycling collection program for Zone 3.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the eight-year term is \$61,007,973. Should the County choose to exercise, at its sole discretion, the two, two-year options to renew, the estimated cumulative value will be \$91,511,960 which includes a 20 percent contingency for anticipated household growth which is expected to increase recyclables and Living Wage adjustments for the duration of the contract. The current contract is valued at \$59,945,000 for a 17-year term, which includes a two-year extension and expires on March 31, 2025. The annualized allocation under the proposed contract is higher than the current contract due to increases in pricing and the number of households since 2008. For example, every-other-week collection services per household started at \$1.96 per month per household in 2008. The current cost for the same service per household is \$3.21 per month, and the new cost under this contract will be \$3.86 per month. The new cost per household represents an increase of 97 percent since inception of

the contract in 2008, but an increase of 20 percent compared to the current cost per household. In general, the Living Wage rates with health benefits have increased 57 percent since 2008. Additionally, the number of households in Zone 3 has increased approximately 14 percent since 2008. County households are expected to increase by 8 percent over the life of the contract. The cost per household for this zone is higher when compared to the other zones, as it is located in the County's South region, which is the largest geographically with lesser household density. The routes in this zone are longer, thereby impacting the fuel and maintenance costs.

Department	Allocation	Funding Source	Contract Manager
DSWM	\$91,511,960	Proprietary Funds	Karina Careaga
Total	\$91,511,960		

Track Record/Monitor

Jonathan Desverguñat of SPD is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to execute the agreement and exercise all provisions of the contract, including any cancellation, renewals, or extensions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Waste Connections of Florida, Inc.	3 Waterway Square Place Suite 110 The Woodlands, TX	3840 NW 37 Court Miami, FL	346	Ronald Mittelstaedt
			33%	

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Vendor Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Total Connection, Inc.	Yes	Deemed non-responsive by the CAO (opinion attached)

Due Diligence

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD's Procurement Guidelines to determine contractor responsibility, including verifying corporate status and that there are no performance or compliance issues through various vendor responsibility lists and a keyword internet search. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to contractor responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, hiring of a consultant to ensure that the recycling industry's best practices were incorporated, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department. The scope of services was updated to include a preference for a

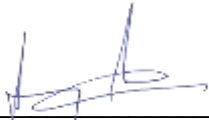
Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners
Page 4

new environmentally friendly fleet of vehicles at contract commencement, GPS and video recording capabilities within the vehicles to mitigate customer complaints/concerns, geographical redistribution of the zones, and additional options for collection schedules.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program applies.
- The Small Business Enterprise Selection Factor and Local Preference applied.
- The Living Wage Ordinance applies.

Attachment

A handwritten signature in blue ink, appearing to read 'Jimmy Morales', is written over a horizontal line.

Jimmy Morales
Chief Operating Officer

Memorandum



Date: February 2, 2024

To: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Thru: Jessica Tyrrell, MBA CPPB *jlt*
Division Director
Strategic Procurement Department

From: Alejandro Garcia
Procurement Contracting Officer II *Alejandro Garcia*
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for RFP No. EVN0000148 Curbside Recycling Collection Program

The Strategic Procurement Department (SPD) issued a competitive Request for Proposals on December 19, 2022, on behalf of Department of Solid Waste Management (DSWM), to obtain proposals from qualified firms to implement an innovative, productive, and cost-effective curbside recycling collection program in the County's Waste Collection Service Area (WCSA) and certain municipalities. This program includes collecting and transporting recyclable materials from residential units within three Zones to the County's Designated Materials Processing Facilities. The County anticipates awarding up to three contracts, one for each Zone, for an eight-year term, with two, two-year options to renew.

On December 15, 2023, four proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of the sole responsive proposal for Zone 1 and two responsive proposals for Zone 2 following the guidelines published in the solicitation. There were no responsive proposals received for Zone 3.

Competitive Selection Committee meeting dates:

January 4, 2024 (Kick-off Meeting)

January 23, 2024 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:

A Small Business Enterprise selection factor was assigned to this solicitation. The responsive proposers did not qualify for the selection factor.

Verification of compliance with minimum qualification requirements and responsiveness:

The solicitation did not have any minimum qualification requirements.

On December 21, 2023, the proposals from Total Connection Inc. and Waste Connections of Florida Inc. were forwarded to the County Attorney's Office (CAO) for review. The CAO responded on January 8, 2024, and deemed both proposals non-responsive. A copy of the CAO's opinion is attached.

Local Certified Veteran's Business Enterprise Preference:

Veteran's Preference was considered. None of the responsive proposers qualified for the preference.

Office of the Inspector General (OIG) and/or Commission on Ethics and Public Trust (COE) Reports, Findings and/or Enforcement Documentation for Proposer and Subcontractor(s):

Staff submitted a request to OIG on December 15, 2023. A response was received on December 18, 2023. No reports or findings.

Staff submitted a request to COE on December 15, 2023. A response was received on December 19, 2023. No reports or findings.

Office of the Commission Auditor (OCA) Background Check:

Staff submitted Committee member's completed Neutrality Affidavits and Resumes to OCA on December 22, 2023. A response was received on December 28, 2023. No conflicts of interest were identified.

Summary of scores:

The final scores for Zones 1 and 2 are as follows:

ZONE 1				
Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Coastal Waste & Recycling of Florida Inc.	3907	465	4372	\$58,875,907

ZONE 2				
Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Waste Management Inc. of Florida	4097	403	4500	\$59,666,318
Coastal Waste & Recycling of Florida Inc.	3902	475	4377	\$50,055,972

Upon review of the scores for Zone 2, SPD procurement staff identified that the score of one of the Committee members for Waste Management Inc. of Florida's criterion titled *Proposer's Capabilities and Approach to Provide the Services* varied in excess of 33 percent from the average score provided by all members for that criterion. As a result, the Committee member was given the opportunity to provide reason for her score, and after discussions were held by the Committee, the member chose to reconsider her score. At the conclusion of addressing the variance there was no other variance and the final resulting score did not affect the ranking.

The Committee decided not to hold oral presentations.

Local Preference:

Local Preference was considered but did not affect the outcome as the two responsive proposals are both local vendors.

Administrative Leave Eligibility:

The following County employees served as scoring members of the Committee and timely completed all committee-related duties, including submittal of the Neutrality Affidavit within three business days from Selection Committee Coordinator's notification dated December 15, 2023; initial scoring within 30 calendar days of Selection Committee Coordinator's completion of required reviews; and are hereby entitled to one (1) day of paid administrative leave pursuant to Implementing Order No. 3-34:

Employee's Name	Employee's Department
Achaya Kelapanda	DSWM
Danny Diaz	DSWM
Deborah Silver	DSWM
Ana Caveda	WASD
Julie Dick	RER

Negotiations:

The Committee recommends that the County enter into negotiations with Coastal Waste & Recycling of Florida Inc. (Coastal), the sole proposers for Zone 1, and Waste Management Inc. of Florida (Waste Management), the highest ranked proposer for Zone 2. The following individuals will participate in the negotiations:

- Alejandro Garcia, Procurement Contracting Officer II, Strategic Procurement Department.
- Danny Diaz, Administration Assistant Director, DSWM
- Achaya Kelapanda, Operations Deputy Director, DSWM

Technical and operational assistance and feedback will be requested from appropriate staff as needed during the negotiation process.

Consensus Statement:

The Committee recommended Coastal for Zone 1 based on their qualifications, extensive experience, hiring practices, and past performance. The firm has demonstrated, based on the scores, that the firm possesses the needed experience, the capacity, and the capability to provide collecting and transporting recyclable materials from residential units for DSWM.

The Committee recommended Waste Management for Zone 2 based on past performance and qualifications. The firm has demonstrated, based on the scorings, that the firm possesses the capacity and the capability to provide collecting and transporting recyclable materials from residential units for DSWM.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet. Your approval of the Committee's recommendation is requested.

Approved

Namita Uppal, C.P.M.
Director and Chief Procurement Officer

Date

Memorandum



Date: January 8, 2024

To: Alejandro Garcia
Procurement Contracting Officer II
Strategic Procurement Department

From: Melanie Spencer
Assistant County Attorney

Subject: Request for Responsiveness Determination of ENV0000148 Curbside Recycling Collection Program

You have asked this office if proposals received in response to RFP No. ENV0000148 (the “Solicitation”) are responsive. I rely on the information provided in your memorandum dated December 21, 2023. I will address each responsiveness concern raised individually below.

BACKGROUND

The purpose of the Solicitation was for the Department of Solid Waste Management (DSWM) to enter into an agreement for implementing an innovative, productive, and cost-effective curbside recycling collection program in the County's Waste Collection Service Area and certain municipalities. The Proposals were to be evaluated and ranked based on several criteria including but not limited to pricing and experience.

DISCUSSION

Total Connection, Inc.

Section 3.1 of the Solicitation states that “[i]n response to this Solicitation, Proposer should complete and return the entire Proposal Submission Package. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required and submitted in the manner described.” Total Connection, Inc. provided only the fillable online forms: the Bid Submittal Form, the Subcontracting Form and INFORMS Bid Details. Total Connection, Inc. failed to provide the complete Proposal Submission Package, including any pricing as required by the terms of the Solicitation.

The purpose of the competitive bidding process is, among other things, “to secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids.” *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1977). In general, a bid may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. See *Robinson Elec. Co. v. Dade Cnty*, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982). It is established that responses to a solicitation must be capable of assuring the County that, if accepted, the proposal will result in a contract that can be performed in accordance with the requirements of the solicitation. See, e.g., *Glatstein v. City of Miami*, 399 So. 2d 1005, 1007-08 (Fla. 3d DCA 1981). Proposers who propose impermissible exceptions to solicitations do

so at the risk of those exceptions being deemed material to the proposal and having their proposals rejected as non-responsive. Pricing is a material term to the Solicitation and the failure of Total Connection, Inc. to provide the complete Proposal Submission Package, including pricing deprives the County of the assurance that the contract the County is soliciting would be entered into and performed according to the County's specific requirements. Total Connection, Inc is non-responsive.

Waste Connection of Florida, Inc.

In its proposal, Waste Connections of Florida, Inc. ("Waste Connection") added a comment of "home" and "each" next to each proposed price within the Price Proposal Schedule for zone 3. While staff has confirmed that the addition of the word "home" under the "Monthly Cost per Household" column does nothing to alter the proposal as household and home can be considered synonyms, the addition of "each" creates ambiguity. Procurement staff has stated that they are unable to determine if "each" refers to each bin collected or each household. As this addition creates an ambiguity as related to pricing, a material element of the proposal, the County is deprived of the opportunity to be assured that the contract will be performed in a manner consistent with the Solicitation. As such, Waste Connection's proposal as related to Zone 3 is non-responsive.

Waste Management Inc. of Florida

Waste Management Inc. of Florida ("Waste Management") provided one exception in its proposal as related to the cure period provided for default. Waste Management stated that "Contractor takes exception to Article 25 to the extent that cure period is discretionary. Contractor requests that language be included in Article 25 that would provide the contractor with an opportunity to cure a default within 30-days or other reasonable cure period as may be negotiated prior to contract execution. Waste Management Inc. of Florida agrees to work in good faith with Miami-Dade to negotiate a mutually agreeable Contract that is acceptable to both parties." As such, the "exception" listed in Waste Management's proposals is nothing more than contract negotiation issue Waste Management has identified to the County. While the County and Waste Management cannot negotiate contract terms that materially differ from the RFP's specifications, Waste Management's exception as related to the cure period does not materially alter or expressly condition its proposal. Consistent with prior opinions from this office, mere requests in an RFP to negotiate contractual terms with the County do not render a proposal non-responsive.



Melanie J. Spencer

AGREEMENT

Curbside Recycling Collection Program Contract No. EVN0000148-Z3

THIS AGREEMENT for the provision of a curbside recycling collection program, made and entered into as of this ____ day of _____, 2024 by and between Waste Connections of Florida Inc., a corporation organized and existing under the laws of the State of Delaware, having its principal office at 3840 NW 37 Court, Miami, FL 33142 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Contractor has offered to provide curbside recycling collection program services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposal ("RFP") No. EVN0000148 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated December 15, 2023 (the "Contractor's Proposal") which is incorporated herein by reference; and

WHEREAS, the County desires to procure from the Contractor such curbside recycling collection program services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.
- b) The words "Common Carrier/Contracted Carrier" to mean a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering their services to all such as may choose to employ the common carrier and pay their charges.
- c) The word "Contract" or "Agreement" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto, and Contractor's Proposal.
- d) The words "Contract Manager" to mean the Chief Procurement Officer, Strategic Procurement Department, or the duly authorized representative designated to manage the Contract.
- e) The word "Contractor" to mean Waste Connections of Florida Inc. and its permitted successors.
- f) The word "Days" to mean calendar days.
- g) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.
- h) The words "Developed Works" to mean all rights, title, and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.
- i) The word "Equipment" to mean all machines, vehicles, and containers used for the storage, processing, and transportation of non-hazardous recyclable materials and the contamination.
- j) The words "Licensed Software" to mean the software component(s) provided pursuant to the Contract.

- k) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- l) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- m) The words "Service" or "Services" to mean the provision of curbside recycling collection program services in accordance with the Scope of Services.
- n) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- o) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 50, 2) Appendix A, 3) Appendix B, 4) Appendix C, 5) Miami-Dade County's RFP No. EVN0000148 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The terms "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.
- e) The terms "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.
- f) The titles, headings, captions, and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered, or amended only by a written amendment duly executed by the Parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but

necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described, and delineated.

- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.
- e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement all changes in providing services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes. The County, at its sole discretion, may consider negotiating the pricing, if the changes have a significant documented impact to the Contractor.

ARTICLE 5. CONTRACT TERM

The Contract shall have two phases as described below:

Phase 1 Preparation

The Contract shall become effective on the date identified on the first page of this agreement. The County anticipates Phase 1 to end on March 31, 2025, unless otherwise mutually agreed upon in writing by both Parties. The Contractor shall obtain all necessary equipment, labor, materials, supplies, licensing, trucks, and other components necessary for or incidental to providing collection services prior to commencement of phase 2. This shall also include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws.

The County prefers the collection vehicles utilized be new at the commencement of service. The selected Contractor shall submit a detailed timeline within 30 days of the commencement of the Preparation phase to the County for the acquisition of vehicles and shall update the County every 30 days thereafter. Sixty (60) days prior to the commencement of the Service phase, the Contractor shall facilitate County inspection of the fleet. The County will allow the use of a used fleet up to the maximum seven (7) years useful life of each vehicle. The Contractor shall submit a detailed timeline within one (1) year of the end of useful life for each vehicle to the County for the acquisition of new vehicles and shall update the County every thirty (30) days thereafter. Sixty (60) days prior to the end of each vehicle's useful life, the Contractor shall facilitate County inspection of the replacement fleet. In the event supply chain issues affect the Contractor's ability to secure new fleet prior to commencement of services, or prior to end of useful life of each vehicle, at the County's sole discretion, Contractor may incorporate used fleet for the additional time approved by the County in writing. Per Attachment A (Scope of Services) Section 2.5 titled Vehicle and Equipment Requirements, the County has the right to direct the Contractor to remove any truck from operation not meeting the listed requirement and it shall be the Contractor obligation to ensure services are still provided in accordance with the resulting contract.

Phase 2 Service Period

Phase 2 of the Contract is expected to commence on April 1, 2025, unless otherwise mutually agreed upon by both Parties, and shall continue through the last day of the last month of the eight-year term. The County, at its sole discretion, may renew this Contract for up to two additional two-year terms, which shall be agreeable to both parties.

The County may extend this Contract for up to an additional one hundred-eighty (180) calendar days beyond the current Contract period for either Phase, and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners (the "Board").

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by: (i) Registered or Certified Mail, with return receipt requested; (ii) personally by a by courier service; (iii) Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or (iv) via facsimile or e-mail (if provided below) with delivery of hard copy pursuant to (i), (ii), or (iii) in this paragraph. The addresses for such notice are as follows:

(1) **To the County**

- a) to the Project Manager:

Miami-Dade County
Department of Solid Waste Management
8831 NW 58 ST
Doral, Florida 33178

Attention: Daniel Diaz
Phone: 305-514-6333
E-mail: Danny.Diaz@miamidade.gov

and

- b) to the Contract Manager:

Miami-Dade County
Strategic Procurement Department
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: cpo@miamidade.gov

(2) **To the Contractor**

Waste Connections of Florida, Inc.
Attn: Division Vice-President
1099 Miller Drive
Altamonte Springs, FL 32701

Waste Connections of Florida, Inc.
Attn: District Manager
3840 NW 37th Ct.
Miami, FL 33142

Waste Connections US, Inc.
3 Waterway Square Place, Suite 110
The Woodlands, Texas 77380
Attn: Legal Department

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work to be performed under this Contract. The compensation for all Work performed under this Contract, including all costs associated with such Work, shall be paid in accordance with Appendix B. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Work undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Prices, as stipulated in Appendix B, shall remain firm and fixed for the term of the Contract, including any extension periods, except for the adjustments in accordance with the Living Wage Ordinance effective October 1st of each year. Living wage adjustments shall be based on the percentage change of the Living Wage for that year. The Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof.

The Miami-Dade County's Living Wage notices are published at:
<https://www.miamidade.gov/global/business/smallbusiness/living-wage.page>

The Contractor prices shall be inclusive of all costs, charges, and fees involved in providing the specified services. The County may consider price adjustments based on changes to Local, State, or Federal laws at the County's sole discretion. Additional charges of any kind added to the invoices submitted by the Contractor are prohibited.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of dump tickets or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust (the "Trust"), shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County (the "Code"), the time at which payment shall be due from the County or Trust shall be forty-five (45) calendar days from receipt of a proper invoice. Billings from prime contractors under services and goods contracts with the County or Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

In accordance with Miami-Dade County Implementing Order No. 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

Invoices and associated back-up documentation shall be submitted electronically or in hard copy format by the Contractor to the County as follows:

- Electronic submission (preferred) to: invsbup@miamidade.gov; or
- Hard copy format mailed to: Miami-Dade County
ATTN: Finance Shared Services
111 NW 1st Street, Suite 2620
Miami, FL 33128

Invoice shall include a Bill to Address, which is the County department being invoiced for the services.

Bill to: Department of Solid Waste Management
2525 NW 62 Street, #5100

Miami, FL 33147
Attention: Maria Christian/Jeanmarie Massa

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify, defend and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or Subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Strategic Procurement Division, certificate(s) of insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by Contractor or its employees, agents, servants, partners principals or subcontractors. Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Contractor shall furnish Miami-Dade County 111 NW 1st Street Suite 2340 Miami, Florida 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained as outlined below.

- A. Worker's Compensation insurance as required by Florida Statute 440.
- B. Commercial General Liability in an amount not less than \$1,000,000 each occurrence \$2,000,000 aggregate including products/completed operations. **Miami-Dade County must be included as additional insured** CG 2037 or CG 2010 11/85 endorsements.
- C. Automobile Liability covering all owned, non-owned and hired vehicles for a minimum of \$1,000,000 combined single limit.
- D. Professional for a minimum of \$1,000,000 each occurrence \$2,000,000 aggregate covering claims arising out of the rendering or failure to render services or provision of products.
- E. Contractor's Pollution liability \$1,000,000 each occurrence \$2,000,000 in the aggregate.
- F. Umbrella or excess liability \$3,000,000 each occurrence, \$3,000,000 aggregate. This insurance shall apply on an excess basis with terms not more restrictive than underlying B-C coverages.

All insurance shall be written on an occurrence basis, except professional liability which may be written on a claims made basis with a retroactive date no later than the effective date of the agreement.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services and are a member of the Florida Guaranty Fund.

The mailing address of Miami-Dade County as the certificate holder must appear on the certificate of insurance as follows:

**MIAMI-DADE COUNTY
111 NW 1st Street
Suite 2340
Miami FL 33128**

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the certificate of insurance is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall assure that the certificate of insurance required in conjunction with this section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the certificate of insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed certificate of insurance to the County before such expiration. If expired certificate of insurance is/are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificate is/are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorneys' fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.
- c) The Contractor always agrees that it will employ, maintain, and assign to the performance of the Work a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so, directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character, and licenses as necessary to perform the Work described herein, in a competent and professional manner.
- e) The Contractor shall always cooperate with the County and coordinate its respective work efforts to maintain the progress most effectively and efficiently in performing the Work.
- f) The Contractor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment under this contract is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all Work and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the Work performed or Services provided pursuant to this Agreement shall always, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Agreement.

ARTICLE 14. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- d) In the event of such dispute, the Parties authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.

- e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information regarding such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.
- f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the Parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of the Parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its Subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Agreement. The Contractor and its Subcontractors and suppliers shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds within five business days of the Commission Auditor's request. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor needs to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. However, such substitution shall not become effective until the County has approved said substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title, or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The Services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the Subcontractor will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates, and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates, and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Contractor commits an Event of Default (as defined below in Article 24) and fails to cure said Event of Default (as delineated below in Article 25), or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.

- c) If County terminates this Agreement for cause under Article 23(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) The foregoing notwithstanding, if the Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
 - i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports, and data.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, and includes but is not limited to the following:
 - i. the Contractor has not delivered Deliverables and/or Services on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

- v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or
 - viii. the Contractor fails to comply with Article 39.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation and/or material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately, or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the Work upon the Effective Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Contractor shall be liable for all damages resulting from the default, irrespective of whether the County elects to terminate the Agreement, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs; and
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third-party proprietary rights in the performance of the Work.
- b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.

- c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable Subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).
- e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or Subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and Subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, Subcontractors, and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or Subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) In the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, Subcontractors, or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of the public records laws of the State of Florida (the "Public Records Law").

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the Contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used, or is using, is holding for use, or which are otherwise in the possession of the County (the "Computer Software"). All third-party license agreements must also be honored by the Contractor and its employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers, and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure, or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure, or removal.

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- b) All Developed Works shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, Subcontractors, or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced, or distributed by or on behalf of the Contractor, or any employee, agent, Subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its Subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its Subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation, or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. SUPPLIER/VENDOR REGISTRATION/CONFLICT OF INTEREST

- a) **Supplier/Vendor Registration**
The Contractor shall be a registered vendor with the County – Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes

Contractor's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- Payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- Provision of unique identifier in the vendor database used for searching and sorting departmental records

The Contractor confirms its commitment to comply with the vendor registration requirements and the associated affidavits available in **INFORMS** at <https://supplier.miamidade.gov>.

- b) Conflict of Interest and Code of Ethics
- Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered

to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

As applicable, Contractor shall comply, subject to applicable professional standards, with the provisions of all applicable federal, state and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

- a) Equal Employment Opportunity clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act of 1955, as amended, (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.
- d) The Davis-Bacon Act, as amended (40 U.S.C. §3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics Ordinance".
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).
- k) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).
- l) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".
- m) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".

- n) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".
- o) Any other laws prohibiting wage rate discrimination based on sex.
- p) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".
- q) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).
- r) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are "to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs".

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "j" through "o" above.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), and permit(s) for the Contractor prior to authorizing Work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate unlawfully against any employee or applicant for employment on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

- i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Work to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, Subcontractors, and suppliers will not represent, directly or indirectly, that any Work, Deliverables or Services provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County may terminate this Contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be in Miami-Dade County.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Section 2-8.10 of the Code, this Contract is subject to a user access fee under the County User Access Program ("UAP") in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Contractor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three business days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the Project is situated, no member of the governing body in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 41. LIENS

The Contractor is prohibited from placing a lien on County property. This prohibition shall apply to all Subcontractors.

ARTICLE 42. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the CSSF indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of Contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the First Source Hiring Referral Program are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public

records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the Contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128.

ARTICLE 44. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (<http://www.uscis.gov/e-verify>)

If County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

ARTICLE 45. SURVIVAL

The Parties acknowledge that any of the obligations in this Agreement will survive the term, termination, and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation, or expiration thereof, shall survive termination, cancellation or expiration hereof.

ARTICLE 46. FORCE MAJEURE

Under applicable law, shall refer to an act of nature (such as, but not limited to, a hurricane, flood, and/or earthquake), war, terrorism, riot, sovereign conduct, strikes, lockouts, fires, epidemics and/or pandemic, adverse governmental conditions or conduct of third parties.

Neither the County nor the Contractor shall be held liable or responsible to the counterparty nor be deemed to have defaulted under or breached this Contract for failure or delay in performing any obligation under this Contract when such failure or delay is caused by an act of Force Majeure. Within twenty-four (24) hours of the occurrence of an act of Force Majeure, the affected party shall notify the counterparty of the act by sending an e-mail message to the Project Manager of the other party. In addition, the affected party shall provide to the counterparty within seven days of determining the cause of the Force Majeure, a written explanation via e-mail concerning the circumstances that caused the act of Force Majeure and the overall impacts to the Contract. Upon receipt of the written explanation, the parties shall mutually agree to any contractual modifications as necessary to continue the Contract with minimal impact to County

operations. The County maintains the right to terminate the Contract for convenience or obtain the goods and/or services through a separate contract, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 47. LABOR, MATERIALS, AND EQUIPMENT SHALL BE SUPPLIED BY THE CONTRACTOR

The Contractor shall furnish all labor, material and equipment necessary for satisfactory contract performance. When not specifically identified in the Scope of Services, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval by the County. Any equipment furnished hereunder by Contractor shall remain the property of Contractor.

ARTICLE 48. PERFORMANCE GUARANTEES

Failure to complete the project in accordance with the Scope of Services and to the satisfaction of the County within the time stated shall cause the Contractor to be subject to Performance Guarantees fees in the amount listed below for each. As compensation due the County for loss of use and for additional costs incurred by the County due to such non-completion of the Work, the County shall have the right to deduct the said Performance Guarantees from any amount due, or that may become due to the Contractor under this Agreement, or to invoice the Contractor for such charges if the costs incurred exceed the amount due to the Contractor.

#	Performance Standard Violation	Performance Guarantees Fees
1	Failure to respond to missed collections in the timeframe required in the Agreement.	\$100 per household per occurrence for 1st notification \$250 per household per occurrence for each additional notification Fees are doubled if resident has a Special Assistance designation on file.
2	Failure to correct chronic problems (chronic shall mean three (3) or more similar Legitimate Complaints at the same premises within a ninety (90) day period) in any category of service.	\$250 per occurrence for the 3rd occurrence \$500 per occurrence thereafter Fees are doubled if resident has a Special Assistance designation on file.
3	Failure to collect recyclable materials for any household which has been missed more than three (3) times within a calendar year.	\$100 per household Fees are doubled if resident has a Special Assistance designation on file.
4	Reporting unresolved missed collection or Legitimate Complaint as resolved.	\$250 per occurrence Fees are doubled if resident has a Special Assistance designation on file.
5	Collecting carts that have been tagged for non-collection by County (or Municipal) Enforcement Personnel	\$100 per occurrence.
6	Collection of any carts that are clearly contaminated	\$50 per occurrence
7	Failure to deliver recyclables to the designated site(s).	\$5,000 per occurrence, plus 125% of tipping fee at Designated Disposal Site per ton delivered elsewhere
8	Failure to submit any report, log, or documentation, with the proper content and format, in the timeframe required (i.e. responses to complaint reports.)	\$50 per day that each report, log, or documentation is late
9	Failure to comply with any provisions of this Agreement for which a penalty has not been specified.	\$100 per occurrence per day

ARTICLE 49. PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER

By entering into, amending, or renewing this Contract, including, without limitation a grant agreement or economic incentive program payment agreement (all referred to as "Contract"), as applicable, the common carrier or contracted carrier (collectively referred to as

"Carrier" or "Contractor") is obligated to comply with the provisions of Section 908.111, Florida Statutes ("F.S."), "Prohibition against governmental entity contracts with common carriers," etc. as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section 908.111, F.S. apply to this Contract.

This compliance includes Contractor providing an attestation that it is not willfully providing, nor will it willfully provide, any service during the Contract term in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the State of Florida or the United States. This attestation by the Contractor shall be in the form attached to this Contract as **Appendix C - Common Carrier or Contracted Carrier Attestation Form** and must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. **This Contract shall not be effective unless and until Contractor executes and provides such attestation.**

Additionally, the Contractor acknowledges and agrees that this subsection and the corresponding compliance with the requirements of Section 908.111, F.S., are deemed added to Section 33 of the Contract (**FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS**). The Contractor further affirms that if it is found in violation of the required attestation, or of any requirement of the Contractor set forth in Section 908.111, F.S., such violation shall be just cause for immediate termination of the Contract by the County, without opportunity to cure, and exclusive of any procedures to cure set forth in elsewhere in the Contract for other events of default. Such termination shall be effective on the termination date stated in the written notice provided by the County and Contractor shall take all actions provided in Section 23(e) of this Contract. If County terminates this Agreement for cause under this subsection, County shall retain its rights under Section 23(c)-(d) of the Contract to (1) terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees, and (2) debar Contractor from County contracting in accordance with the County debarment procedures.

ARTICLE 50. LIVING WAGE

Contractor is advised that the provisions of the Code of Miami-Dade County (also known as the Living Wage Ordinance) apply to these services. Contractor agrees to comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, and to acknowledge awareness of the penalties for non-compliance. The selected Contractor shall provide compensation equal to or exceeding the Living Wage benefits, specified in: Section 2-8.9. – Living Wage Ordinance for County Service Contracts and County Employees
https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.9LIWAORCOSECOCEM

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date shown on the first page of the Agreement.

Contractor

Miami-Dade County

By:



Name:

DAMIR KIBAK

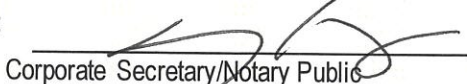
Title:

DIVISION VICE PRESIDENT

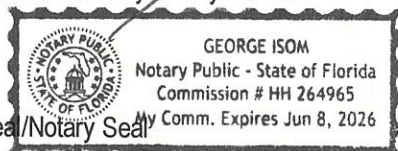
Date:

4/11/2024

Attest:


Corporate Secretary/Notary Public

Corporate Seal/Notary Seal



By:

Name:

Daniella Levine Cava

Title:

Mayor

Date:

Attest:

Juan Fernandez-Barquin
Clerk of the Court and Comptroller

Approved as to form
and legal sufficiency

Assistant County Attorney

APPENDIX A – SCOPE OF SERVICES

2.0 SCOPE OF SERVICES**2.1 Background**

The County is home to approximately 2.7 million residents. The DSWM provides waste disposal facilities for residents countywide through an integrated waste management system consisting of two public landfills, additional contracted landfill capacity, a waste-to-energy plant, and associated ashfill. The solid waste collected in the County is processed in one of three ways: it is incinerated, landfilled, or recycled. According to 2021 State of Florida Department of Environment Protection (FDEP) data, of the 4.58 million tons of solid waste produced by the entire County, 12% is incinerated, 67% is landfilled, and 21% is recycled. The recycling is achieved through a combination of public and private programs. In addition to the current curbside collection program, the County accepts certain recyclable materials at the County's Neighborhood Trash and Recycling Centers, where white goods are collected.

Pertinent to this solicitation, the DSWM operates one of the nation's largest (outsourced) curbside recycling programs servicing, as of July 31, 2023, a total of 364,950 households. Of those, 16,689 are households located in participating municipalities with Interlocal Agreements (receiving weekly or bi-weekly collection service).

The number of households included in the program is expected to continue to grow throughout the term of the proposed contract as reflected in the most recent countywide population projections from the University of Florida Economics and Business Research are as follows:

Year	Projected Miami-Dade County Population
2025	2,992,700
2030	3,128,300
2035	3,234,600

Source: Florida Population Studies Bulletin 189, University of Florida Economics and Business Research

Zones

Under the current collection and hauling agreements, residential recycling collection service is provided in three separate Zones generally described as North (from the Broward line to approximately but not entirely NW 36th Street), Central (from approximately but not entirely NW 36th Street south to approximately the 836 Expressway) and South (the 836 Expressway to south of SW 392 Street). Attachment B provides a map of these areas.

Current Curbside Residential Service Levels

Recyclable materials are collected by private vendors weekly (to residential units in City of South Miami and Miami Beach) and every-other-week (EOW) to all other residential units. All EOW service to County residents is provided on a regular garbage pick-up day. Weekly service to some households is provided on a different day of the week than garbage. Service to County residents will continue to be provided on a garbage pick-up day, unless a mutually agreed schedule is modified by a written amendment duly executed by the Parties. Service to cities is expected to remain as currently delivered. No service will be provided on Christmas day. All other holidays will be treated as normal collection days.

The collection method is Single Stream, typically using one 65-gallon standard issue wheeled and lidded blue recycling cart with the County logo, but carts may vary in size from house to house ranging from 35 gallons to 95 gallons. Additionally, some residential units require 18-gallons bins for manual pick-up services.

Manual Bin Pick-Up

The County currently provides manual 18-gallon bin service as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	1,548	710	16

Multiple Carts

As of December 2022, the number of homes with more than one cart are as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	679	1,217	2,420

Customer Base

Curbside recycling collection services to be provided under this scope are for residential units. The estimated total number of residential units at the end of calendar 2022 are identified below by collection Zone as follows:

	Zone 1	Zone 2	Zone 3
Residential Units Current	123,385	105,326	136,239

Note: Residential units include single-family households and multi-family dwelling units (duplexes, triplexes, and some cluster homes of four or less dwelling units) designated by DSWM for receiving residential collection services.

Historical Tonnage

The table below provides the estimated tonnage of Single Stream recyclable materials collected in the three Zones in FY 2021. Data provided within the table provides only an approximation of the tonnage that might be expected in each Zone.

Material	Zone 1 (tons)	Zone 2 (tons)	Zone 3 (tons)
Single Stream Recyclables	20,517	18,100	22,934

The composition breakdown of residential curbside recyclable materials in FY 2021 is presented in the following table.

Miami-Dade County Curbside Recycling Program Recyclable Materials Collected in FY 2021 (tons)	
All Papers	30,166
Glass Bottles	5,538
Plastic Bottles	4,922
Ferrous Cans	615
Aluminum Beverage Cans	615
Non-recyclable	19,695
Total	61,551

2.2 Services to be Provided

The Contractor will implement a comprehensive curbside recyclables collection program servicing residential units in the Zone 3 defined in Section 2.1. Contractor shall assume total responsibility for all services required, as outlined in this RFP, and shall be the sole point of contact with regard to all project matters. The Contractor must adhere to all directives as mandated by the County. Contractor shall furnish all equipment, labor, materials, supplies, licensing, transportation, and other components necessary to provide collection services as specified herein.

Although this solicitation identifies current service levels/schedules under Section 2.1, the County may, at its option, change collection service levels/schedules for Zones after contract award by formal written communication at least 18 months in advance.

Scope of Services and Requirements

The Contractor will provide a comprehensive, curbside recyclables collection program in Zone 3 as outlined in the table below. County will provide, deploy, and maintain customer carts. Sizes include 95-gallon, 65-gallon, 35-gallon, and 18-gallon manual pick-up. Collection pickup shall occur on a scheduled garbage collection day.

Type of Service: Curbside Residential Recyclables Collection	Level of Service
Every-other-week	Every-other-week (EOW) collection for all residential units as designated by County.

2.3 **General Requirements**

The Contractor must comply with the following general requirements:

- 2.3.1 Shall have (directly or via an approved Subcontractor) a General Hauler Permit pursuant to Section 15.17 of the Miami-Dade County Code, prior to commencement of work.
- 2.3.2 From the time of placement of residential program recyclables at the curbside, such materials shall become the sole property of Miami-Dade County or its authorized agent. No Contractor shall have the right to keep, process, alter, remove or otherwise sell or dispose of any of the residential program recyclables without specific written authorization from the County.
- 2.3.3 All necessary equipment, labor, materials, supplies, licensing, trucks, and other components necessary for or incidental to providing collection services must be ready before the commencement of the services as stipulated in Article 5. This shall include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws.
- 2.3.4 Contractor shall be responsible for safely providing the collection services defined in this RFP and will be required to submit a Safety Plan to the County covering all aspects of operations at time of proposal submittal. The County reserves the right to identify any modifications needed to meet County requirements which the Contractor will be required to resolve to the satisfaction of the County.
- 2.3.5 Contractor shall not combine loads of recyclable materials collected under this RFP with those collected from any customer outside of the awarded Zone without prior written approval of the County.
- 2.3.6 Contractor shall not combine loads of recyclable materials collected this RFP with any other materials not designated by the County as residential program recyclable unless directed by the County in writing. This shall include the collection of commercial recyclable materials.
- 2.3.7 Contractor shall reasonably attempt to identify, through visual observation, hopper cameras, or other technology any materials not designated by the County as residential program recyclables (refer to Attachment C for a list of examples) and/or meeting the definition of Contamination. A cart that is found to have contaminated materials by the Contractor shall not be serviced and shall follow the requirements provided below in Section 2.9 "Collection Procedures and Route Requirements." Additionally, a cart that has been tagged by the County as contaminated shall not be serviced by the Contractor.

2.4 **Designated Facility(ies)**

Contractor shall deliver all collected recyclable materials to the addresses listed below designated by the County during normal business hours, Monday through Friday, and possibly Saturdays, with the exception of observed holidays. The County reserves the right to change designated facility with ninety (90) calendar days written notice. The Designated Facilities are located within Miami-Dade County. The County, at its sole discretion, may consider negotiating the pricing, if the changes have a significant impact to the Contractor.

Facility Addresses within the jurisdiction of Miami-Dade County:

- Waste Management's Hialeah Transfer Station (5000 NW 37th Ave., Miami, FL 33142) and
- Waste Management's Homestead Transfer Station (11695 SW 328th St., Homestead, FL 33033)

Facility Address outside the jurisdiction of Miami-Dade County:

- Waste Management, Reuter facility located at 20701 Pembroke Rd, Pembroke Pines, FL 33029 (for direct deliveries only).

2.5 **Vehicle and Equipment Requirements**

Contractor shall purchase and/or lease, operate, maintain and repair all vehicles and equipment necessary to complete the collection services identified in this RFP and perform the contractual duties specified in the subsequent contract. Contractor should account for the following vehicle and equipment requirements in their proposals:

- 2.5.1 The County prefers the collection vehicles utilized be new at the commencement of service. The Contractor shall submit a detailed timeline within 30 days of the commencement of the preparation phase to the County for the acquisition of vehicles and shall update the County every 30 days thereafter. Sixty (60) days prior to the commencement of the service phase, the Contractor shall facilitate County inspection of the fleet. In the event supply chain issues affect the Contractor's ability to secure new fleet prior to commencement of services, at the County's sole discretion, may incorporate temporary modifications into the final contract provisions and terms which may include used fleet. The County has the right to direct the Contractor to remove any truck from operation and it shall be the Contractor obligation to ensure services are still provided in accordance with the resulting contract.
- 2.5.2 The collection fleet will be entirely dedicated to the delivery of services provided for in this contract and will not be used by the Contractor for other purposes.
- 2.5.3 All collection vehicles must comply with applicable U.S. Environmental Protection Agency standards, meet industry standards, be fully licensed and insured.
- 2.5.4 GPS telematic technology shall be utilized on collection vehicles for monitoring collection routes and must be real-time with constant access provided to the DSWM.
- 2.5.5 Video recording technology for front, side, and hopper views shall be utilized on collection vehicles and video data generated shall be stored (for a minimum of 180 days) and accessible to the County in real or near real time for purposes of verifying service, verifying safe driving, and checking for Contamination.
- 2.5.6 All vehicles and equipment shall be kept clean, safe, and sanitary at all times of service. Vehicle paint shall be maintained. Contractor shall wash collection vehicles thoroughly on the outside and sanitize them with a suitable disinfectant and deodorant at a minimum of once per week (or more frequently if deemed necessary by the County).
- 2.5.7 All vehicles and equipment shall be in good working condition and be monitored daily to prevent fuel and lubricant leaks or hydraulic oil spills. All spills discovered shall be cleaned up immediately by the Contractor and reported in accordance with County ordinances.
- 2.5.8 Prior to use, a tare weight for all collection vehicles will be established by the County and linked directly to a vehicle identification number. At the time the County established the tare weight, the vehicle shall have no less than one-half tank of fuel, vehicles weighed (empty), decaled, and entered into the County's scalehouse system. At the County's discretion, the tare
- 2.5.9 weight of any collection vehicle may be checked at any time. Any new or replacement vehicles acquired by the Contractor shall follow the same process.
- 2.5.10 Upon award, the Contractor and County shall approve the list of vehicles and equipment to be utilized by Contractor. This list shall be in a format approved by the County.

2.6 Cart Service Requirements

The County shall continue to purchase, deploy, and maintain residential recycling carts.

- 2.6.1 Contractor shall handle all carts in a manner to prevent damage and report any cart in need of service or replacement immediately to the County. All carts shall be thoroughly emptied and returned with lids closed in an upright position to the point where collected, unless conditions warrant otherwise, and placement is approved by the County. Only carts displaying the County logo shall be serviced. Any carts tagged for "no pick-up" by County (or municipality) Code Enforcement personnel shall not be collected. Any carts obviously containing significant Contamination (e.g., open lid with lumber or yard trash) shall not be collected. Locations (either addresses or GPS coordinates) of uncollected carts shall be recorded and transmitted to the County daily.
- 2.6.2 Contractor shall immediately clean up any spillage caused during the collection of curbside recyclables from properly set out carts.

2.7 Personnel Requirements

All personnel to be utilized by Contractor for performing services must meet the following:

- 2.7.1 Perform in a safe, proper, and effective manner, abiding by all applicable regulations and holding all licensures and/or certifications required to perform their designated duties.
- 2.7.2 Wear a uniform bearing the company's name/logo that complies with the Safety Plan to be approved prior to commencement of services.
- 2.7.3 Maintain a neat and professional appearance.
- 2.7.4 Maintain a courteous and respectful attitude toward the public and all customers.
- 2.7.5 At no time shall personnel accept gratuities for any reason from residents for performing services required under the resulting

contract.

2.8 Routes and Routing

The collection routes will be created and updated as needed as follows:

- 2.8.1 County will provide the Contractor a list of all households in the Contractor's awarded area in a GIS format (electronically).
- 2.8.2 Contractor will use that data to create routes that meet the requirements of the resulting contract such as operating between designated hours.
- 2.8.3 When final and within 60 days in advance of program implementation, the Contractor will submit the routes (in GIS format) back to the County for approval.
- 2.8.4 Contractor will notify the County of any changes to routes and will similarly transmit such updates to the County 45 days in advance of implementation for approval, allowing DSWM time to notify the homeowner(s) of this change.
- 2.8.5 No route changes are permitted without notice to and approval by the County.

2.9 Collection Procedures and Route Requirements

Contractor shall account for the following collection procedures and routing requirements:

- 2.9.1 Collection of recyclables shall occur on an existing garbage collection service day unless otherwise specified. The County reserves the right to periodically change garbage days of service, which in turn may require the Contractor to adjust its routes to maintain consistency on days of service.
- 2.9.2 Contractor will not collect obviously contaminated carts and will record address or equivalent (precise GPS location) for submission to the County. The County will use the list to reconcile against reports of missed pick-ups (to avoid performance guarantee fees being imposed) and take appropriate enforcement action. This process will be as automated as possible (e.g., driver snaps photo that contains GPS data and is automatically sent to the Department and 311).
- 2.9.3 In the event of a non-collection due to Contamination, the Contractor will leave a "Recycling Contamination" Tag or notice (to be provided by the County, sample provided in Attachment C) in a visible location on the cart.
- 2.9.4 Contractor will not collect carts that have been tagged by County (or municipal) Enforcement personnel for non-collection. The County will reconcile its list of tagged carts against reports of missed pick-ups so as to avoid performance guarantee fees being imposed on the Contractor.
- 2.9.5 In the case of closed/lidded containers being collected, the collector has a hopper camera, and the driver will observe the dump action to identify, and report addresses or GPS locations with contaminated loads to the County for direct follow-up by County enforcement personnel who will be working to enforce County policy regarding Contamination.
- 2.9.6 The Contractor will periodically provide the County with lists of routes it deems to be experiencing higher levels of Contamination, for purposes of assisting the County in its efforts to reduce Contamination.
- 2.9.7 Contractor must maintain a Route Specification Packet that includes complete set of collection route street maps (one route per map), individually numbered in sequence geographically from north to south, inclusive of the entire area serviced by the Contractor for curbside collection of recyclable materials, participating municipalities included, at a scale not smaller than 1 inch to 0.075 mile.
- 2.9.8 Each route map identify each street, avenue, etc., indicate the day the route is scheduled for collection and the current number of residential units on the route. The Contractor could propose revised route maps to the Project Manager within 45 days of any recommended routes, including collection schedule. All changes in routes must be approved by the Project Manager before commencement.

2.10 Performance Requirements

- 2.10.1 It is the County's intent to receive all complaints and requests for service related to this collection operation through its 311 Contact Center and transmit these to the Contractor within 24 hours of receipt. It is not a requirement of this contract for the Contractor to receive any calls directly from the customers. Contractor should direct all calls from any customers to the 311 Contact Center.
- 2.10.2 The County will work with the Contractor to handle complaints on a case-by-case basis by utilizing available information collected by 311 Call Center, RFID tracking, GPS and or video data available. All service complaints reported to the Contractor communicated by the County shall be responded to within twenty-four (24) hours of notification by the County to the Proposer(s) or by the next service day following notification in an appropriate manner. The complaint resolution shall be reported back to the County within an additional twenty-four (24) hours. The Contractor may request from the County, and the County may grant, additional time to remedy a complaint when necessary.
- 2.10.3 Failure to complete any program tasks and services in accordance with the specifications and to the satisfaction of the County shall cause the Contractor to be subject to performance guarantee fees, as stated in Section 2.12 Performance Guarantees.

- 2.10.4** The repair and/or replacement of damaged property of any kind that can be ascribed to the actions of the Contractor or its employees or Subcontractors, the Contractor shall be responsible for all costs associated with the repair and/or replacement of the damaged property. Contractor shall immediately notify the County of any complaint involving a customer's claim of damage to private property due to actions of the Contractor. And shall promptly repair any legitimate damage claim at its sole expense within a period of time as approved by the County.

2.11 Reporting Requirements

Contractor shall provide to the County the following documents and reports in an electronic format approved by the County in a timely and accurate manner. County shall have the right to have the information revised, validated, or provided on a different format at the County's discretion.

2.11.1 Monthly Performance Reports

Monthly performance reports shall be submitted to the County within fifteen (15) days after the end of each month, and shall at a minimum include the following:

- Number of missed collections and complaints during the month and in the year-to-date (calendar year basis), to include any performance or service challenges.
- Number of non-collection notices placed on customers carts during the month and in the year-to-date (calendar year basis).

2.11.2 Quarterly Household Set Out Rate Reports

Quarterly household set out rate reports shall be submitted to the County within thirty (30) days after the end of the quarter and should include the set-out rate at the household and route level in order to verify the program participation (e.g., A route has 1,000 homes, the cart counter on the truck reports 750 collected, 75% participation/set out).

2.11.3 Annual State of Recycling Reports

Annual state of recycling reports shall be submitted to the County within thirty (30) days of the annual anniversary from the date of the contract effective date. Reports shall, at a minimum, include the following:

- Annualized information for all items required in the Monthly performance reports and quarterly household set out rate reports.
- Current route maps and schedules.
- A complete list of all vehicles and equipment currently utilized including make, type, year, maintenance records, license plate numbers, and Vehicle ID numbers (to include fleet utilized by subcontractors).
- Current Route Specification Packet.
- Implementation of any sustainable, innovative, or green initiatives to minimize environmental impacts from services provided under the contract.

2.12 Possible Future Services

In addition to the services outlined within this Section, the County may seek to add additional recycling collections services to the scope of the contract. They may include, but not be limited to the following: Collecting materials from a drop-off program; Collecting recyclable materials in demonstration or pilot projects; Collecting recyclable materials from multi-residential establishments; Collecting recyclable materials from public facilities; and, Service level alternatives in low density areas. Any additional services may be added to the Contract by written supplemental agreements.

APPENDIX B – PRICE SCHEDULE

Price schedule for Every-other-week for Zone 3.

Zone 3

Type of Service:			
Curbside Residential Recyclables Collection	Level of Service	Total Households Estimate	Monthly Cost per Household
Every-other-week	Every-other-week (EOW) collection for all residential units as designated by County.	136,239	\$3.86
	Manual bin service	16	\$4.41
	Additional cart service charge per household (additional carts only)	2,420	\$1.50

APPENDIX C – COMMON CARRIER OR CONTRACTED CARRIER ATTESTATION FORM

This form must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. Capitalized terms used herein have the definitions ascribed in section 908.111, F.S.

Waste Connections of Florida Inc.

_____ is not willfully providing and will not willfully provide any service during the Contract term in

Common Carrier or Contracted Carrier

furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: DAMIAN REAL

Title: DIVISION VICE-PRESIDENT

Signature: Damian Real

Date: 4/11/2024

**UNANIMOUS WRITTEN CONSENT
OF THE SOLE DIRECTOR OF
WASTE CONNECTIONS OF FLORIDA, INC.**

The undersigned, being the sole director of Waste Connections of Florida, Inc., a Delaware corporation (the "Company"), hereby consents to the following actions and adopts the following resolution pursuant to the Bylaws of this corporation:

WHEREAS, the Company's sole director wishes to authorize the Company's employee listed below to perform certain administrative tasks on behalf of the Company.

BE IT RESOLVED that Damian Ribar, Division Vice President of the Company, be, and he hereby is, authorized to sign, submit and execute by and on behalf of the Company any and all agreements, instruments, documents or papers, as he may deem reasonably appropriate or necessary, pertaining to the Agreement to provide a Curbside Recycling Collection Program Contract No. EVN0000148-Z3 for Miami-Dade County, Florida, and that any such action taken to date involving the above is hereby ratified and approved.

IN WITNESS WHEREOF, the undersigned sole director of Waste Connections of Florida, Inc. has duly executed this Written Consent in The Woodlands, Texas on the date set forth opposite his name.

Dated: April 9, 2024



Ronald J. Mittelstaedt, Director

Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Recommendation for Approval to Award a Contract for Processing of Recyclable Materials

Summary

This item is for the processing and selling of recyclable materials collected as part of the County's Single Stream curbside recycling collection program by the Department of Solid Waste Management (DSWM). DSWM provides waste collection, recycling programs and disposal facilities for residents through an integrated waste management system and administers one of the nation's largest curbside recycling programs (Program) for approximately 363,347 homes. Through its recyclables collection service providers, the County provides Single Stream, every other-week recycling to all single-family homes, duplexes, triplexes, and some cluster homes of four or less dwelling units in the unincorporated areas and partner municipalities, the City of Miami Beach and City of South Miami.

The awarded Contractor shall accept and process materials generated in the Program collected and delivered by the County or its designee to the Contractor's Materials Recovery Facilities. Award of this contract will allow continuity of processing recyclable materials included in the Program. Recyclable materials account for approximately 60,000 tons annually. The contract includes public education and outreach programs to further reduce contamination of recyclable materials.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. EVN0000147, Processing of Recyclable Materials*, to Waste Management Inc. of Florida in the amount of \$71,200,000 for a five-year term, with one, five-year option to renew (OTR) for DSWM. This contract will replace contract *RFP545B* awarded by the Board via Resolution No. R-189-08 for a total of 15 years, including renewals and extensions. The contract was recently extended for two years by the Board via Resolution No. R-199-23 and will expire on March 31, 2025.

Background

A Request for Proposals (RFP) was issued under full and open competition on November 4, 2022. On the closing date of October 17, 2023, the County received two proposals, including one from a local firm. The RFP closing date was extended numerous times to allow time to complete a Recycling Composition Study (Study) which provided necessary information for Proposers to prepare and submit accurate price proposals. On October 20, 2023, the two proposals received were forwarded to the County Attorney's Office (CAO) for responsiveness review. The CAO responded on November 21, 2023, and deemed Gravitas Infinitum dba Carbotura's proposal non-responsive for failure to provide pricing with its proposal. The evaluation of the sole responsive proposal was conducted on December 18, 2023, and negotiations commenced on January 10, 2024, and concluded on January 18, 2024.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$35,600,000. Should the County choose to exercise, at its sole discretion, the one, five-year OTR, the estimated cumulative fiscal impact will be \$71,200,000 which includes a 20 percent contingency for anticipated household growth which is expected to increase recyclables and Living Wage adjustments for the duration of the contract.. For the 15 year term of the

current contract, DSWM was paid for the recyclable material processed and there was no expenditure associated. The revenue collected for the 15 year term was \$10,222,452. However, for the two-year extension period the County is paying \$17,000,000. The two-year extension period expires on March 31, 2025.

The current cost for processing of the recyclable materials is \$136.95 per ton and the County does not receive revenue generated from the sale of recyclable materials. The proposed cost in the new agreement is \$145 per ton and the County will receive 100 percent of the revenue generated from the sale of the recyclable materials. At today's Average Material Value (AMV), the revenue generated is estimated to be approximately \$46 per ton resulting in a net cost of \$99 per ton. This represents an overall estimated net fiscal impact to the County for the contract term of \$71,200,000. The new net cost per ton represents a savings of approximately 28 percent from the current price per ton. In addition, DSWM will also receive \$100,000 per year for the life of the contract as part of the Education and Outreach Fund to enhance recycling education to further reduce recycling contamination. When compared with the current contract extension cost using January 2024 AMVs, this agreement may save an estimated amount of \$24,201,598 over 10 years.

Department	Allocation	Funding Source	Contract Manager
DSWM	\$71,200,000	Proprietary Funds and Revenue Generating	Karina Careaga
Total	\$71,200,000		

Track Record/Monitor

Jonathan Desverguñat of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise all provisions of the contract, including any cancellation, or extensions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Waste Management Inc. of Florida	800 Capitol Street, Suite 3000 Houston, TX	3401 NW 110 St Miami, FL	122	David M. Myhan
			77.7%	

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Vendor Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Gravitas Infinitum dba Carbotura	No	Deemed non-responsive by the CAO (opinion attached)

Due Diligence

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues through various vendor responsibility lists and a keyword internet search. The lists that were referenced included convicted vendors, debarred vendors,

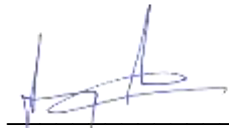
delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, hiring of a consultant to ensure that best practices of the recycling industry were incorporated, holding meetings and drafting sessions with DSWM, and posting a draft solicitation for industry comments. The scope of services includes an annual study which affects the contamination percentage component of the formula used to adjust revenue to the County, and to seek monetary contributions to the Education and Outreach Fund to enhance Program recycling education and understanding and to reduce contamination.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program provision applies where permitted by funding source for the processing costs.
- The Small Business Enterprise Selection Factor and Local Preference applied where permitted by funding source.
- The Living Wage Ordinance applies to the processing costs of the contract.

Attachment



Jimmy Morales
Chief Operating Officer

Memorandum



Date: December 21, 2023

To: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Thru: Jessica Tyrrell, MBA CPPB *jlt*
Division Director
Strategic Procurement Department

From: Alejandro (Ale) Garcia *Alejandro Garcia*
Procurement Contracting Office II
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for RFP No. EVN0000147 Processing of Recyclable Materials

The Strategic Procurement Department issued a competitive Request for Proposals on October 14, 2022, on behalf of the Department of Solid Waste Management (DSWM), to obtain proposals from qualified firms to provide the processing and selling of recyclable materials collected as part of the County's single stream curbside recycling collection program. The County anticipates awarding a contract for a five (5) year term, with one (1), five (5) year option to renew.

On October 17, 2023, two (2) proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of the sole responsive proposal following the guidelines published in the solicitation.

Competitive Selection Committee meeting dates:

December 6, 2023 (Kick-off Meeting)

December 18, 2023 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:

A Small Business Enterprise selection factor was assigned to this solicitation. The responsive proposer did not qualify for the selection factor.

Verification of compliance with minimum qualification requirements and responsiveness:

The solicitation did not have any minimum qualification requirements.

On October 20, 2023, the two proposals received were forwarded to the County Attorney's Office (CAO) for review. The CAO responded on November 21, 2023, and deemed Gravitas Infinitum dba Carbotura's proposal non-responsive. A copy of the CAO's opinion is attached.

Local Certified Veteran's Business Enterprise Preference:

Veteran's Preference was considered. The responsive proposer did not qualify for the preference.

Office of the Inspector General (OIG) and/or Commission on Ethics and Public Trust (COE) Reports, Findings and/or Enforcement Documentation for Proposer and Subcontractor(s):

Staff submitted a request to OIG on October 19, 2023. A response was received on October 20, 2023. No reports or findings.

Staff submitted a request to COE on October 19, 2023. A response was received on October 23, 2023. No reports or findings.

Office of the Commission Auditor (OCA) Background Check:

Staff submitted Committee member's completed Neutrality Affidavits and Resumes to OCA on December 4, 2023. A response was received on December 14, 2023. No conflicts of interest were identified.

Summary of scores:

The Committee conducted scoring in accordance with the criteria outlined in the solicitation. The final scores are as follows:

Proposer	Technical Score (max. 4500)	Price Score (max. 500)	Total Combined Score (max. 5000)	Price/Cost Submitted
Waste Management Inc. of Florida	4375	455	4830	\$45,060,000*

*Proposed price is \$150.20 per ton for processing. The County generates an estimated amount of 60,000 tons of recyclable materials per year. The Price/Cost reflects a five (5) year term. In addition, the County will receive 100% of revenue generated by the sale of recyclable materials, which is not reflected in the Price/Cost submitted.

The Committee decided not to hold oral presentations.

Local Preference:

Local Preference was considered but did not affect the outcome as only one proposal was evaluated.

Administrative Leave Eligibility:

The following County employees served as scoring members of the Committee and timely completed all committee-related duties, including submittal of the Neutrality Affidavit within three business days from Selection Committee Coordinator's notification dated November 29, 2023; initial scoring within 30 calendar days of Selection Committee Coordinator's completion of required reviews and are hereby entitled to one (1) day of paid administrative leave pursuant to Implementing Order No. 3-34:

Employee's Name	Employee's Department
Danny Diaz	DSWM
Deborah Silver	DSWM
Jim Rustin	Miami Dade Public Library System
Renessa Gordon	Department of Transportation and Public Works
Tametria Harris	Seaport

Negotiations:

The Committee recommends that the County enter into negotiations with Waste Management Inc. of Florida. The following individuals will participate in the negotiations:

- Alejandro Garcia, Procurement Contracting Officer II, Strategic Procurement Department.
- Danny Diaz, Administration Assistant Director, DSWM
- Achaya Kelapanda, Operations Deputy Director, DSWM
- Jeanmarie Masa, Recycling Manager, DSWM

Technical and operational assistance and feedback will be requested from appropriate staff as needed during the negotiation process.

Consensus Statement:

The Competitive Selection Committee recommends that the County enter into negotiations with Waste Management Inc. of Florida, based on their qualifications, extensive experience, and past performance. The firm has demonstrated, based on the scorings, that the firm possesses the needed experience, the capacity and the capability to provide processing of recyclable materials services for DSWM.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet. Your approval of the Committee's recommendation is requested.

Approved

Namita Uppal, C.P.M.
Director and Chief Procurement Officer

Date

Memorandum



Date: November 21, 2023

To: Alejandro Garcia
Strategic Procurement Department (SPD)
Procurement Contracting Officer II

From: Eduardo W. Gonzalez
Assistant County Attorney

Subject: Request for Responsiveness Determination on Requests for Proposals (RFP)
EVN0000147 Processing of Recyclable Materials

This memorandum is prepared in response to your request for responsiveness opinion that the undersigned received on October 23, 2023.¹ The solicitation at issue sought proposals from qualified firms for the processing and selling of recyclable materials collected as part of the County's Single Stream curbside recycling collection program. You identified issues with two proposers: (1) Gravitas Infinitum dba Carbotura ("Gravitas"); and (2) Waste Management Inc. of Florida ("WM"). For the reasons set forth below, Gravitas's proposal is non-responsive and WM's proposal is responsive.

Discussion

In general, a proposal may be rejected or disregarded if there is a material variance between the proposal and the solicitation. While a minor variance will not invalidate the proposal, a material variance will. *See Robinson Elec. Co. v. Dade County*, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982). The determination of whether a variance is material or minor is fact specific and may differ from bid to bid. Florida courts have used a two-part test to determine if the variance in a proposal constitutes a material and, therefore, nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed, and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a proposer in a position of advantage over other proposers. *See Glatstein v. City of Miami*, 399 So. 2d 1005, 1007-08 (Fla. 3d DCA 1981).

Gravitas did not provide the County with the Form 1 Price Proposal Schedule, nor the fees or information requested in Form 1. Indeed, Gravitas's entire proposal reads as it was responding to a different solicitation that includes the processing of trash instead of the distinct services the RFP at issue was soliciting for: the processing and selling of recyclable materials collected as part of the County's Single Stream curbside recycling collection program. In any event, Gravitas's failure to provide the County with a price proposal as required by the RFP deprives the County of

¹ The undersigned provided you with a written responsiveness opinion on November 21, 2023, which is the date reflected above to allow SPD to move forward with the procurement process with an opinion from this office. In the November 21, 2023, opinion we advised you that a formal written memorandum will be forthcoming. This is such memorandum and is being provided to you on December 18, 2023.

the assurance that the contract the County is soliciting would be entered into and performed according to the County's specific requirements. Gravitass is non-responsive.

WM's proposal contained five numbered exceptions. However, WM's fifth exception clarifies that WM's exceptions do not expressly condition its proposal or pricing but are, instead, issues for which the County and WM must reach "mutually acceptable terms." More specifically, WM's states that its prices and proposal are "*conditioned upon the parties' entry into a contract that is appropriate for the services being requested and which contains mutually acceptable terms to both parties.*" As such, the "exceptions" listed in WM's proposals are nothing more than contract negotiation issues WM has identified to the County. While the County and WM cannot negotiate contract terms that materially differ from the RFP's specifications, WM's exceptions do not materially alter or expressly condition its proposal. Consistent with prior opinions from this office, mere requests in an RFP to negotiate contractual terms with the County do not render a proposal non-responsive.

Conclusion

Accordingly, for the foregoing reasons, WM's proposal is responsive, and Gravitass's proposal is non-responsive.

/s/ Eduardo W. Gonzalez
Eduardo W. Gonzalez

EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

COMPOSITE
CONTRACT MEASURES

SBE 10 % of total Technical points N/A
 Local Preference Yes
 Certified VBE N/A

EVALUATION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	Waste Management Inc. of Florida
Proposer's relevant experience, qualifications, and past performance		250	1250	1230
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors		200	1000	970
Proposer's approach to providing the services requested in this Solicitation		200	1000	965
Small and Local Business Utilization and Project Labor Requirements		100	500	475
Proposer's financial capability		150	750	735
Total Technical Points		900	4500	4375
Selection Factor <i>(10% of the Total Technical Points)</i>				
Total <i>(Technical & Selection Factor)</i>		900.00	4500.00	4375.00
Price Points		100	500	455.00
TOTAL POINTS		1000.00	5000.00	4830.00
Ranking				

Signature: _____

Review Team Coordinator _____

Reviewer _____

Print Name: _____ Date: _____

Alejandro Garcia 12/18/2023

Print Name: _____ Date: _____

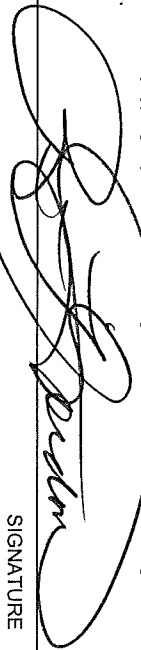
Alexis Castro 12/18/2023

EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

Review Team Member: Renessa Gordon

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Waste Management Inc. of Florida
Proposer's relevant experience, qualifications, and past performance		250	250
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors		200	190
Proposer's approach to providing the services requested in this Solicitation		200	190
Small and Local Business Utilization and Project Labor Requirements		100	95
Proposer's financial capability		150	135
Proposed Price		100	95

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

12/6/2023 

SIGNATURE

DATE

12/18/23

EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

Review Team Member:

Deborah Sauer

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Waste Management Inc. of Florida
Proposer's relevant experience, qualifications, and past performance		250	230
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors		200	190
Proposer's approach to providing the services requested in this Solicitation		200	190
Small and Local Business Utilization and Project Labor Requirements		100	90
Proposer's financial capability		150	150
Proposed Price		100	90

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

Deborah Sauer

SIGNATURE

12/18/23

DATE

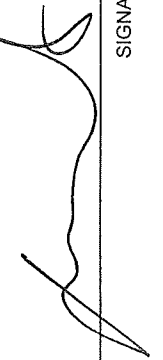
EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

Review Team Member:

James Rustin

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Waste Management Inc. of Florida
Proposer's relevant experience, qualifications, and past performance		250	250
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors		200	200
Proposer's approach to providing the services requested in this Solicitation		200	200
Small and Local Business Utilization and Project Labor Requirements		100	100
Proposer's financial capability		150	150
Proposed Price		100	90

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.



SIGNATURE

12-18-2023

DATE

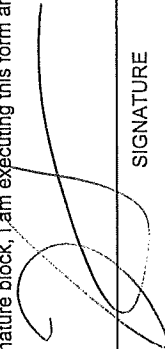
12/18/2023

EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

Review Team Member: Timethia Harris

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Waste Management Inc. of Florida
Proposer's relevant experience, qualifications, and past performance		250	250
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors		200	195
Proposer's approach to providing the services requested in this Solicitation		200	190 [#]
Small and Local Business Utilization and Project Labor Requirements		100	95
Proposer's financial capability		150	150
Proposed Price		100	90

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.



12/12/2023

SIGNATURE

DATE

12/13/23

EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

Daniel Diaz

Review Team Member:

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Waste Management Inc. of Florida
Proposer's relevant experience, qualifications, and past performance		250	250
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors		200	195
Proposer's approach to providing the services requested in this Solicitation		200	195
Small and Local Business Utilization and Project Labor Requirements		100	95
Proposer's financial capability		150	150 20 150
Proposed Price		100	90

I understand that by typing my name into the signature block, I am executing this form and the scores included are based upon my own evaluation of Proposals.

[Signature]

SIGNATURE

12/12/2023

975
12/18/23

DATE

EVN0000147
PROCESSING OF RECYCLABLE MATERIALS
EVALUATION OF PROPOSALS

Evaluation of scores

FIRM'S NAME	EVALUATION CRITERIA	Maximum Points Per Member	Renessa Gordon	Deborah Silver	Danny Diaz	Tametrica Harris	Jim Justin	Average	Low Disparity	High Disparity
Waste Management Inc. of Florida	Proposer's relevant experience, qualifications, and past performance	250	250	230	250	250	250	246.00	164.82	327.18
	Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	200	190	190	195	195	200	194.00	129.98	258.02
	Proposer's approach to providing the services requested in this Solicitation	200	190	190	195	190	200	193.00	129.31	256.69
	Small and Local Business Utilization and Project Labor Requirements	100	95	90	95	95	100	95.00	63.65	126.35
	Proposer's financial capability	150	135	150	150	150	150	147.00	98.49	195.51
	Proposed Price	100	95	90	90	90	90	91.00	60.97	121.03

AGREEMENT

Processing of Recyclable Materials Contract No. EVN0000147

THIS AGREEMENT for the provision of processing of recyclable materials, made and entered into as of this 1st day of April 2025 by and between Waste Management Inc. of Florida, a corporation organized and existing under the laws of the State of Florida, having its principal office at 1800 N. Military Trail, Suite 201, Boca Raton, FL 33431 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Contractor has offered to provide processing of recyclable materials, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposal ("RFP") No. EVN0000147 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated October 17, 2023 (the "Contractor's Proposal") which is incorporated herein by reference; and

WHEREAS, the County desires to procure from the Contractor such processing of recyclable materials for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.
- b) The words "Average Material Value" or "AMV" to mean the value of a mixed recyclables estimated by considering the individual commodity values in a given time period, inclusive of the negative value of contamination and residue, and the overall composition percentages to equal 100.0%, in total.
- c) The words "Board of County Commissioners" or "Board" to mean the governing body of Miami-Dade County, Florida.
- d) The words "Common Carrier/Contracted Carrier" to mean a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering their services to all such as may choose to employ the common carrier and pay their charges.
- e) The words "Contamination/Residue" refers to the deposit of non-recyclable items by residents (or program participants) in the curbside recycling cart and the subsequent collection by a hauler for delivery to the Materials Recovery Facility (MRF). Examples include any hazardous or food or yard waste, tires, diapers, plastic bags, non-recyclable types of glass (ceramic, china, dishes, mirrors, light bulbs, Pyrex®, porcelain and window glass), any plastics other than those that contained food, personal and household cleaners such as the bulky rigid plastics such as garbage cans, resin lawn furniture, laundry baskets and children's outdoor playing units/toys. Any recyclable material determined to be unable to be processed or marketed due to trace amounts of container contents or product labels (and other similar "imperfections"), or due to any part of the collection, transportation, facility receiving or processing activities (e.g., wet due to rain, broken glass due to unloading, etc.) shall not be considered contamination. Such items shall be referred to as "residue".

- f) The word "Contract" or "Agreement" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto, and Contractor's Proposal.
- g) The words "Contract Manager" to mean the Director, Strategic Procurement Department, or the duly authorized representative designated to manage the Contract.
- h) The word "Contractor" to mean Waste Management Inc. of Florida and its permitted successors.
- i) The word "Days" to mean calendar days.
- j) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.
- k) The words "Developed Works" to mean all rights, title, and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.
- l) The words "Licensed Software" to mean the software component(s) provided pursuant to the Contract.
- m) The words "Performance Guarantees" to mean performance guarantee fees assessed by the County against the Contractor as specified in the RFP and any resulting Contract.
- n) The words "Processing Fee" to mean the per ton price due to the Contractor for performing the recyclable materials processing and marketing service performed under the terms of the resulting contract.
- o) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- p) The words "Recyclable Material" to mean those materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products as specified herein
- q) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- r) The words "Service" or "Services" to mean the provision of processing of recyclable materials services in accordance with the Scope of Services.
- s) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- t) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 50, 2) Appendix A, 3) Appendix B, 4) Appendix C, 5) Miami-Dade County's RFP No. EVN0000147 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The terms "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.
- e) The terms "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.
- f) The titles, headings, captions, and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered, or amended only by a written amendment duly executed by the Parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described, and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.
- e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement all changes in providing services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date identified on the first page of this agreement and shall continue through the last day of the last month of the five-year term. The County, at its sole discretion, may renew this Contract for one, five-year term. The County may extend this Contract for up to an additional one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners (the "Board").

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by: (i) Registered or Certified Mail, with return receipt requested; (ii) personally by a by courier service; (iii) Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or (iv) via facsimile or e-mail (if provided below) with delivery of hard copy pursuant to (i), (ii), or (iii) in this paragraph. The addresses for such notice are as follows:

(1) To the County

a) to the Project Manager:

Miami-Dade County
Department of Solid Waste Management
8831 NW 58 ST
Doral, Florida 33178

Attention: Daniel Diaz
Phone: 305-514-6333
E-mail: Danny.Diaz@miamidade.gov

and

b) to the Contract Manager:

Miami-Dade County
Strategic Procurement Department
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974

Attention: Chief Procurement Officer
Phone: (305) 375-4900
Email: cpo@miamidade.gov

(2) To the Contractor

Waste Management Inc., of Florida
1801 N. Military Trail, Suite 201
Boca Raton, FL 33431(954) 9840

Attention: David M. Myhan, President
Phone: (954) 984-2012
E-mail: Dmyhan@wm.com

and

Waste Management Inc., of Florida
1801 N. Military Trail, Suite 201
Boca Raton, FL 33431

Attention: Lisa Silva, Asst. Secretary
Phone: (954) 984-2012
E-mail: Lsilva@wm.com

and

Waste Management Inc., of Florida
3401 NW 110 Street
Miami, FL 33167

Attention: Jason Neal, Gov't. Affairs Director
Phone: (305) 986-6107
E-mail: JNEAL2@wm.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/REVENUE SHARING/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price and revenue sharing the Contractor will charge or pay to provide the Work to be performed under this Contract. The compensation for all Work performed under this Contract, including all costs associated with such Work, shall be paid in accordance with Appendix B. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Work undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Prices, as stipulated in Appendix B shall be inclusive of all costs, charges, and fees involved in providing the specified services. Additional charges of any kind will not be accepted.

The Initial Processing Fee and Contamination/Residue Fee shall remain fixed and firm for a period of twelve (12) months from the contract's effective date. Thereafter, the Processing Fee and Contamination/Residue Fee shall be adjusted upward or downward as follows:

Ten (10) months into the contract, and every twelve (12) months thereafter, the County will review the current Processing Fee and Contamination/Residue Fee for adjustments (decreases or increases). Adjustments shall be applied to the current Processing Fee and Contamination/Residue Fee and shall be based on changes in the following pricing index: Consumer Price Index (CPI) **for All Urban Consumers (CPI-U)**, Series ID: **CUUR0300SA0, CUUS0300SA0**, Titled: **All items in South urban, all urban consumers, not seasonally adjusted**, as published by the U.S. Bureau of Labor Statistics (BLS). The Base CPI Index for adjustments shall be the Index published by the BLS for the referenced CPI Series **in the month and year when the Initial Processing Fee was negotiated and agreed upon**, and the Base Processing Fee shall be the Initial Processing Fee (or the current Processing Fee, as applicable). Adjustment will not apply to Revenue.

The period used to calculate the initial adjustment will begin in the month when the Initial Processing Fee was negotiated and agreed upon and will include as many months as have been published by the BLS at the time of the adjustment. The Initial Processing Fee CPI adjustment shall be effective in the contract's thirteenth (13th) month.

Processing Fee adjustments may also be negotiated based on other indexes published by the BLS (CPI or PPI) or other economic factors if these economic indicators are evidently proven to have directly affected the contract Processing Fee during the contract period. The Contractor may initiate a request for price adjustment, the County will review such request as prescribed above and will either approve the price adjustment as requested, negotiate with the Contractor to determine the appropriate price adjustment, or reject the request in its best interest. If the County elects to reject the Contractor's request for an adjustment, the Contractor is not excused from continuing to perform under the Contract.

See link below for Index:

https://data.bls.gov/pdq/SurveyOutputServlet?series_id=CUUR0300SA0,CUUS0300SA0.

Processing Fee and Contamination/Residue Fee adjustments shall be formalized by a Price Amendment, originated and published by the Strategic Procurement Department. Under no circumstances should the Contractor invoice the County a Processing Fee and Contamination/Residue Fee that is higher than the Processing Fee and Contamination/Residue Fee published through the contract award or a Price Amendment.

ARTICLE 9. RECYCLABLE MATERIALS COMPOSITION STUDY

In order to confirm the accuracy and reliability of tonnages processed, the Contractor will hire and compensate a mutually agreed upon independent 3rd party entity with relevant experience and expertise to conduct a Recyclable Materials Composition Study that complies with applicable industry standards. Such studies will be conducted not less than once per year and one-half of the cost will be billed to the County in the month following the studies. The Contractor and the County will work with the independent 3rd party entity to resolve any statistically significant deviations from program tonnages reported by the Contractor. At the County's sole discretion, the County has

the right to conduct additional studies, at any time but not sooner than 180 days from previous study, at no cost to the Contractor, with a mutually agreed upon independent 3rd party entity with relevant experience and expertise to conduct a Recyclable Materials Composition Study that complies with applicable industry standards.

After completion of each Recyclable Materials Composition Study, the current Contamination/Residue percentage (%), as reflected in the AMV calculations table shown in Appendix 2, Section 2.12.1, shall be consistent with the results of the most recent Recyclable Materials Composition Study and become effective no later than 30 days from receipt of the Recyclable Materials Composition Study by the County.

ARTICLE 10. METHOD AND TIMES OF PAYMENT

The Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust (the "Trust"), shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County (the "Code"), the time at which payment shall be due from the County or Trust shall be forty-five (45) calendar days from receipt of a proper invoice. Billings from prime contractors under services and goods contracts with the County or Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1 and 2-8.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

The Contractor shall pay the County the County's percentage share on or before the 15th of the month following the month the recyclables were processed without billing. The County reserves the right to audit such payments based on the indices in Appendix C, Revenue Sharing or other available market data. Any deviation in amounts owed to the County shall be rectified by the following months payment. In accordance with Miami-Dade County Implementing Order No. 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

Invoices and associated back-up documentation shall be submitted electronically or in hard copy format by the Contractor to the County as follows:

- Electronic submission (preferred) to: invsubp@miamidade.gov; or
- Hard copy format mailed to: Miami-Dade County
ATTN: Finance Shared Services
111 NW 1st Street, Suite 2620
Miami, FL 33128

Invoice shall include a Bill to Address, which is the County department being invoiced for the services.

Bill to: Department of Solid Waste Management
2525 NW 62 Street, #5100
Miami, FL 33147
Attention: Maria Christian/Jeanmarie Massa

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 11. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify, defend and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or Subcontractors, but excluding liability, losses, or damages resulting from the County's negligence or wrongful conduct. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Strategic Procurement Department, certificate(s) of insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, to include Products & Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
Miami, Florida 33128-1974**

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the certificate of insurance is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall assure that the certificate of insurance required in conjunction with this section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the certificate of insurance is scheduled

to expire during the term of the Contract, the Contractor shall submit new or renewed certificate of insurance to the County before such expiration. If expired certificate of insurance is/are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificate is/are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 12. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorneys' fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.
- c) The Contractor always agrees that it will employ, maintain, and assign to the performance of the Work a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so, directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character, and licenses as necessary to perform the Work described herein, in a competent and professional manner.
- e) The Contractor shall always cooperate with the County and coordinate its respective work efforts to maintain the progress most effectively and efficiently in performing the Work.
- f) The Contractor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 13. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment is not in the best interest of the County.

ARTICLE 14. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all Work and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the Work performed or Services provided pursuant to this Agreement shall always, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Agreement.

ARTICLE 15. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- d) In the event of such dispute, the Parties authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.
- e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information regarding such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.
- f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 16. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the Parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of the Parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 17. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its Subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Agreement. The Contractor and its Subcontractors and suppliers shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three years from the expiration date of this Agreement and any extension thereof.

ARTICLE 18. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds within five business days of the Commission Auditor's request. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 19. SUBSTITUTION OF PERSONNEL

In the event the Contractor needs to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. However, such substitution shall not become effective until the County has approved said substitution.

ARTICLE 20. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title, or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 21. SUBCONTRACTUAL RELATIONS

- a) If the Contractor causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the Subcontractor will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor

shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 22. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates, and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates, and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 23. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 24. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Contractor commits an Event of Default (as defined below in Article 25) and fails to cure said Event of Default (as delineated below in Article 26), or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 24(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) The foregoing notwithstanding, if the Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and

- vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
 - i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports, and data.

ARTICLE 25. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, and includes but is not limited to the following:
 - i. the Contractor has not delivered Deliverables and/or Services on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or
 - viii. the Contractor fails to comply with Article 40.
 - ix. the Contractor has multiple performance standard violations.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
 - i. treat such failure as a repudiation and/or material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 26. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately, or this Agreement with the County

may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the Work upon the Effective Termination Date.

ARTICLE 27. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Contractor shall be liable for all damages resulting from the default, irrespective of whether the County elects to terminate the Agreement, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs; and
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction

ARTICLE 28. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third-party proprietary rights in the performance of the Work.
- b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.
- c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable Subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).
- e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or Subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and Subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 29. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such

Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.

- b) The Contractor shall advise each of its employees, agents, Subcontractors, and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or Subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) In the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, Subcontractors, or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 30. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of the public records laws of the State of Florida (the "Public Records Law").

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the Contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used, or is using, is holding for use, or which are otherwise in the possession of the County (the "Computer Software"). All third-party license agreements must also be honored by the Contractor and its employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers, and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure, or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure, or removal.

ARTICLE 31. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the

County's copyrights or other proprietary rights.

- b) All Developed Works shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, Subcontractors, or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced, or distributed by or on behalf of the Contractor, or any employee, agent, Subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its Subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its Subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation, or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 32. SUPPLIER/VENDOR REGISTRATION/CONFLICT OF INTEREST

- a) **Supplier/Vendor Registration**
The Contractor shall be a registered vendor with the County – Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes Contractor's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- **Identification of individual account records**
- **Payments to individual/Contractor for goods and services provided to Miami-Dade County**
- **Tax reporting purposes**
- **Provision of unique identifier in the vendor database used for searching and sorting departmental records.**

The Contractor confirms its commitment to comply with the vendor registration requirements and the associated affidavits available in **INFORMS** at <https://supplier.miamidade.gov>.

- b) **Conflict of Interest and Code of Ethics**
Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 33. INSPECTOR GENERAL REVIEWS**Independent Private Sector Inspector General Reviews**

Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. This deduction will not apply to the Percentage (%) Revenue Sharing. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 34. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

As applicable, Contractor shall comply, subject to applicable professional standards, with the provisions of all applicable federal, state and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

- a) Equal Employment Opportunity clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended by Executive Order 11375, and, implementing regulations at 41 C.F.R. Part 60.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act of 1955, as amended, (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.
- d) The Davis-Bacon Act, as amended (40 U.S.C. §3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics Ordinance".
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).
- k) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).
- l) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".
- m) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".
- n) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".
- o) Any other laws prohibiting wage rate discrimination based on sex.
- p) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".
- q) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).
- r) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are "to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs".
- s) Florida Department of Environmental Protection (FDEP) Recovered Materials Dealer Certification and report tonnage annually to FDEP pursuant to 403.7046 F.S. and 62.722 F.A.C. and submit a copy of the certificate to the County at the commencement of the contract. Certification must be kept current for the term of the contract.

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "j" through "o" above.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), and permit(s) for the Contractor prior to authorizing Work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 35. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate unlawfully against any employee or applicant for employment on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 36. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 37. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Work to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, Subcontractors, and suppliers will not represent, directly or indirectly, that any Work, Deliverables or Services provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 38. BANKRUPTCY

The County may terminate this Contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 39. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be in Miami-Dade County.

ARTICLE 40. COUNTY USER ACCESS PROGRAM (UAP)**a) User Access Fee**

Pursuant to Section 2-8.10 of the Code, this Contract is subject to a user access fee under the County User Access Program ("UAP") in the amount of two percent (2%). The UAP fee only applies to the Cost (\$) per Ton for Processing. All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Contractor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three business days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 25 of this Contract.

ARTICLE 41. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the Project is situated, no member of the governing body in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 42. LIENS

The Contractor is prohibited from placing a lien on County property. This prohibition shall apply to all Subcontractors.

ARTICLE 43. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the CSSF indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of Contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the First Source Hiring Referral Program are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 44. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the Contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128.

ARTICLE 45. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor and its Subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Contractor affirms that (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Contractor; (b) it has required all Subcontractors to this Contract to register and use the E-Verify system to verify the work authorization status of all new employees of the Subcontractor; (c) it has an affidavit from all Subcontractors to this Contract attesting that the Subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Contract. Registration information is available at: (<http://www.uscis.gov/e-verify>)

If County has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this contract in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Contractor agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that Contractor shall be liable for any additional costs incurred by the County because of such termination.

In addition, if County has a good faith belief that a Subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but Contractor has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the Subcontractor upon receipt of notice from the County of such violation by Subcontractor in accordance with Section 448.095(5)(c), Florida Statutes.

Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, Contractor, or Subcontractor no later than twenty (20) calendar days after the date of contract termination.

ARTICLE 46. SURVIVAL

The Parties acknowledge that any of the obligations in this Agreement will survive the term, termination, and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation, or expiration thereof, shall survive termination, cancellation or expiration hereof.

ARTICLE 47. FORCE MAJEURE

Under applicable law, shall refer to an act of nature (such as, but not limited to, a hurricane, flood, and/or earthquake), war, terrorism, riot, sovereign conduct, strikes, lockouts, fires, epidemics and/or pandemic, adverse governmental conditions or conduct of third parties.

Neither the County nor the Contractor shall be held liable or responsible to the counterparty nor be deemed to have defaulted under or breached this Contract for failure or delay in performing any obligation under this Contract when such failure or delay is caused by an act of Force Majeure. Within twenty-four (24) hours of the occurrence of an act of Force Majeure, the affected party shall notify the counterparty of the act by sending an e-mail message to the Project Manager of the other party. In addition, the affected party shall provide to the counterparty within seven days of determining the cause of the Force Majeure, a written explanation via e-mail concerning the circumstances that caused the act of Force Majeure and the overall impacts to the Contract. Upon receipt of the written explanation, the parties shall mutually agree to any contractual modifications as necessary to continue the Contract with minimal impact to County operations. The County maintains the right to terminate the Contract for convenience or obtain the goods and/or services through a separate contract, taking over the performance of the Work or any part thereof either by itself or through others.

ARTICLE 48. PERFORMANCE GUARANTEES

Failure to complete the project in accordance with the Scope of Services and to the satisfaction of the County within the time stated shall cause the Contractor to be subject to Performance Guarantees fees in the amount listed below for each. As compensation due the County for loss of use and for additional costs incurred by the County due to such non-completion of the Work, the County shall have the right to deduct the said Performance Guarantees from any amount due, or that may become due to the Contractor under this Agreement, or to invoice the Contractor for such charges if the costs incurred exceed the amount due to the Contractor.

Performance Standard Violation	Performance Guarantees Fees
Failure of Facility to meet operating permit requirements or other applicable laws and regulations of Miami-Dade County and/or the appropriate jurisdiction, the State of Florida, or the Florida Department of Environmental Protection	\$500 per day after the first 8 hours
Failure of Facility to accept program material delivery vehicles in a timely manner	\$500 per day
Non-Operational / Non-calibrated Scales	\$500 per day after 120-minute grace period
Failure to arrange for marketing and shipping of materials beyond the time required to consolidate and prepare for shipping	\$500 per day
Failure to submit monthly, quarterly, and annual reports requested by the County and as specified in the Contract	\$50 a day starting on the third day and doubling each subsequent day

ARTICLE 49. PROHIBITION AGAINST GOVERNMENTAL ENTITY CONTRACTS WITH COMMON CARRIER or CONTRACTED CARRIER

By entering into, amending, or renewing this Contract, including, without limitation a grant agreement or economic incentive program payment agreement (all referred to as "Contract"), as applicable, the common carrier or contracted carrier (collectively referred to as "Carrier" or "Contractor") is obligated to comply with the provisions of Section [908.111](#), Florida Statutes ("F.S."), "Prohibition against governmental entity contracts with common carriers," etc. as amended, which is deemed as being incorporated by reference in this Contract. All definitions and requirements from Section [908.111](#), F.S. apply to this Contract.

This compliance includes Contractor providing an attestation that it is not willfully providing, nor will it willfully provide, any service during the Contract term in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the State of Florida or the United States. This attestation by the Contractor shall be in the form attached to this Contract as **Appendix C - Common Carrier or Contracted Carrier Attestation Form** and must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. **This Contract shall not be effective unless and until Contractor executes and provides such attestation.**

Additionally, the Contractor acknowledges and agrees that this subsection and the corresponding compliance with the requirements of Section [908.111](#), F.S., are deemed added to Section 33 of the Contract (**FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS**). The Contractor further affirms that if it is found in violation of the required attestation, or of any requirement of the Contractor set forth in Section 908.111, F.S., such violation shall be just cause for immediate termination of the Contract by the County, without opportunity to cure, and exclusive of any procedures to cure set forth in elsewhere in the Contract for other events of default. Such termination shall be effective on the termination date stated in the written notice provided by the County and Contractor shall take all actions provided in Section 23(e) of this Contract. If County terminates this Agreement for cause under this subsection, County shall retain its rights under Section 23(c)-(d) of the Contract to (1) terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees, and (2) debar Contractor from County contracting in accordance with the County debarment procedures.

ARTICLE 50. LIVING WAGE

Contractor is advised that the provisions of the Code of Miami-Dade County (also known as the Living Wage Ordinance) apply to these services. Contractor agrees to comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, and to acknowledge awareness of the penalties for non-compliance. The selected Contractor shall provide compensation equal to or exceeding the Living Wage benefits, specified in: Section 2-8.9. – Living Wage Ordinance for County Service Contracts and County Employees

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.9LIWAORCOSECOCEM

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date shown on the first page of the Agreement.

Contractor

Miami-Dade County

By:

Name: David M. Myhan

Title: President

Date:

Attest:

Lisa P. Silva Lisa P. Silva, Asst. Sec.
Asst. Corporate Secretary/Notary Public

By:

Name: Daniella Levine Cava

Title: Mayor

Date:

Attest:

Juan Fernandez-Barquin
Clerk of the Court and Comptroller

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney

APPENDIX A – SCOPE OF SERVICES

2.1 Background

The County is home to approximately 2.8 million residents and provides municipal services to unincorporated households as well as a number of households located in municipalities. The DSWM provides waste collection, waste reduction, recycling programs and disposal facilities for residents through an integrated waste management system. The Department currently administers one of the nation's largest curbside recycling programs for approximately 363,347 homes (see below for details).

Solid waste collected in the County is processed in one of three ways: it is incinerated, landfilled, or recycled. According to 2021 State of Florida Department of Environment Protection (FDEP) data, of the 4.58 million tons of solid waste produced by the entire County, 12% is incinerated, 67% is landfilled, and 21% is recycled.

In addition to the residential curbside collection program, materials are also collected at Neighborhood Trash and Recycling Centers (TRCs) where white goods, used oil, electronics, cardboard, and yard waste are collected for proper processing.

County Curbside Recycling Program

Per Florida Statute 403.706, the County mandates both residential and commercial recycling, and therefore has well established recycling programs for both sectors. Through its franchised recyclables collection service providers, the County provides Single Stream, every-other-week (EOW) recycling to all single-family homes, duplexes, triplexes and some cluster homes of four or less dwelling units in the unincorporated areas and partner municipalities. Two partner municipalities, City of Miami Beach and City of South Miami, pay the County to receive once-per-week collection of curbside recycling.

As of July 31, 2023, the total program serviced 364,950 households. Of those, 16,689 are households located in participating municipalities with Interlocal Agreements (receiving weekly or bi-weekly collection service). The household generated materials for the period October 1, 2021 through September 30, 2022 was as follows:

all paper (tons)	Steel (tons)	Plastic (tons)	Aluminum (tons)	Glass (tons)	Non-marketed (tons)	Total (tons)
28,242	574	4,611	574	5,187	18,449	57,637

The Contractor shall guarantee that their facilities can accommodate the entire flow generated by the County program.

2.2 Recovered Materials Dealer Certification

Contractor shall obtain a Florida Department of Environmental Protection (FDEP) Recovered Materials Dealer Certification and report tonnage annually to FDEP pursuant to [403.7046 F.S.](#) and [62.722 F.A.C.](#), and submit a copy of the certificate to the County at the commencement of the contract. Certification must be kept current for the term of any resultant contract.

2.3 Materials Recovery Facility

The Contractor shall accept, and process materials generated in the County curbside recycling collection program and delivered to their Materials Recovery Facilities by the County or its designee. The facilities shall be adequately sized to accept all of the tonnage of materials as outlined herein and produced by the County and its partner communities, and must be ready to commence by April 1, 2025, or 30 days after issuance of purchase order; whichever occurs earlier, unless otherwise mutually agreed upon by both parties. This shall include the possession of all necessary licenses required to meet all applicable Local, State, and Federal laws. The Contractor shall be responsible for maintaining the facility in a responsible manner and for the processing and marketing of Recyclable Materials collected under the terms of these specifications. Ultimate disposition of these materials must take place at properly permitted markets or processing facilities. An approved market shall be determined by the Contractor and approved by the County. Approval shall not be unreasonably withheld.

The MRFs used shall be properly permitted, have calibrated truck scales and a process and associated software to accurately track and report on delivered tonnages, and be available in a reporting module to which County personnel will have view rights. The facility shall accept materials from the County or its designee six (6) days per week (Monday through Saturday), between the hours of 7am and 6pm except for certain legally recognized Holidays. The County or its designated representatives shall have the right to make periodic inspections of any MRF used for this program and any downstream facility accepting processed/marketed materials.

The Contractor's MRFs shall be available for the County curbside recycling collection program for the life of the contract, except for the facility located at Waste Management's Homestead Transfer Station (11695 SW 328th St., Homestead, FL 33033) that will be available for a minimum of five (5) years from contract commencement date. Any changes to the Materials Recovery Facilities availability to receive the curbside recycling collection materials shall be notified to the County twelve (12) months in advance.

2.4 Personnel and Operations

The Contractor must employ a sufficient number of adequately trained staff consistent with general industry standards (most critically those related to health and safety) inclusive of an onsite facility manager. The Contractor must operate the facility and process the materials in a manner that meets and stays current with all mandatory standards and methodologies in the recycling industry and all best practices standards and methodologies otherwise being used in the recycling industry insofar as it relates to the operation of equipment and the facility and processing and removal of all materials within three working days from the time of delivery (72 hours exclusive of weekends and Holidays).

2.5 Multiple Materials Recovery Facilities

The County desires multiple Materials Recovery Facilities within the jurisdiction of Miami-Dade County located with a geographic distribution to facilitate transportation efficiencies for the curbside collection activity (e.g., north, south, and central). This may be achieved by the Contractor offering more than one processing location or by the Contractor subcontracting additional capacity in different facilities. The current Materials Recovery Facilities are as follows:

Facility Addresses within the jurisdiction of Miami-Dade County:

- Waste Management's Hialeah Transfer Station (5000 NW 37th Ave., Miami, FL 33142) and
- Waste Management's Homestead Transfer Station (11695 SW 328th St., Homestead, FL 33033)

Facility Address outside the jurisdiction of Miami-Dade County:

- Waste Management, Reuter facility located at 20701 Pembroke Rd, Pembroke Pines, FL 33029 (for direct deliveries only).

2.6 Delivery, Acceptance Procedures, and Processing of Delivery Vehicles

Vehicle and driver pairs working as agents of the County delivering program materials to the Contractor's facilities for which the County will be subject to fees charged, will be identified with appropriate markings and/or tag numbers which will be provided to the Contractor in an electronic list. The Contractor shall weigh the arriving vehicle in, direct the driver to the appropriate location to offload, and subsequently weigh the vehicle out and provide the driver with a weight ticket, identifying the vehicle, the driver, the time and date and weight of delivered materials. The Contractor shall retain a copy (signed by the driver) and will provide the County with a copy as back-up to the monthly invoice. The facility shall not have vehicle wait times in excess of 30 minutes.

The Contractor processing facilities shall be equipped with adequately sized legal-for-trade truck scales and computerized recordkeeping systems for weighing and recording all incoming and outgoing vehicles that identify and track the vehicle, time and date of entry/exit, contents and entity. Such scales shall be inspected and approved for use prior to placing them into service. Contractor shall have the scales inspected on a yearly basis, as required by law.

The Contractor shall weigh all trucks that enter the designated facilities, perform recordkeeping, and generate reports of incoming materials as required herein or requested by the County. The Contractor shall use tare weights. At minimum, the Contractor shall recalibrate the scales at least every 90 calendar days. The Contractor shall notify the County immediately and provide a contingency plan to weigh all trucks should the primary scales or computerized recordkeeping systems not be in service. The Contractor shall provide the County with the contingency plan which meets the County's satisfaction, for downed scales within 90 days of award of this contract. The Contractor may make a request to the County to use established tare and averages on a time limited basis.

2.7 Designated Recyclable Materials

The Contractor must accept and process the following items:

- Aluminum cans and beverage containers
- Glass bottles and food containers – all colors
- Ferrous (iron) cans

- Polyethylene Terephthalate (PET) Plastic containers (typically marked with the #1 – narrow neck only)
- High Density Polyethylene (HDPE) Natural plastic containers (typically marked with the symbol #2 – narrow neck containers only such as milk and water jugs)
- HDPE Pigmented plastic containers (typically marked with the symbol #2 – narrow neck containers only such as detergent, shampoo, bleach bottles)
- Plastics that typically have symbols #3, #4, #5, #6, #7 – narrow and screw top containers
- Mixed Residential Paper – mixed residential paper consists of a mixture of various qualities of paper not limited as to type of fiber content – acceptable fibers include newsprint, old corrugated cardboard (to include pizza boxes, grease free and food free), magazines, catalogs, cereal boxes, shoe boxes, telephone books, printer paper, copier paper, mail and all other office paper without wax liners.

2.8 County Efforts to Deliver Quality Materials

In effort to encourage the generation of a high quality of recyclable materials and minimize the inclusion of Program Contamination, the County is expanding its efforts to produce a more optimal generation of materials through the following activities:

- Continued curbside recycling education and outreach efforts that promote the placement of only the Simple 5 recyclables (i.e., Program Materials) in the recycling cart. Specifically, campaign materials emphasize that plastic bags and recyclables in plastic bags are unacceptable and are an impediment to the program. Other non-recyclable materials are also highlighted as items that are harmful to the success of the program.
- County Waste Enforcement Officers (WEO) will observe/inspect carts and issue notices and post “no pick-up” tags on a regular basis. An internal 311 Service Request (“SR”) that will be used by Waste Enforcement Officers to track tagged recycling carts and advise residents and homeowners at households with visible contamination in the recycling carts or contaminants that are identified because of opening a recycling cart. The SR will require residents to remove the contamination and to request a re-inspection by DSWM’s Code Enforcement Division. Until the re-inspection is completed, the property address will appear on the no-service report as a location that should not be serviced for recycling collection.
- The RFP for the curbside collection component of this program includes a requirement that the Collector refrain from collecting any carts tagged by DSWM Waste Enforcement Officers. The RFP for the curbside collection component of this program also includes a requirement that the Collector refrain from collecting carts containing clearly visible and obvious contamination, to tag the cart and report its location back to the County. In the case of closed/lidded containers being collected, the RFP requires that the Collector have and use a hopper camera; to enable the driver to observe the dump action and identify and report addresses or GPS locations with contaminated materials to the County for direct follow-up by Waste Enforcement Staff.

2.9 Proposer Efforts to Reduce Contamination

- In order to provide training/public education, the Contractor shall make available a room at the processing facilities. Note: the training/public education will be conducted during hours of operations only, as needed.
- Contractor shall provide tours to the public (i.e., schools, organizations, institutions, etc.) of the facilities to help educate how recycling is processed and how contamination impacts processing at the County’s request. At minimum, the County will provide at least one weeks’ notice prior to the date the tour should occur; unless otherwise mutually agreed upon to occur sooner.
- Contractor shall assist the County in funding an educational campaign and outreach during the term of the contract. The Contractor shall remit to the County \$100,000 at the start of the initial term and \$100,000 each subsequent contract year of the initial term and each contract year of the Option to Renew (OTR).

2.10 Record Keeping and Reporting

The Contractor shall provide documents and reports in the format requested by the Project Manager and such documents and reports shall be delivered to the County in an accurate manner. All reports are due to the County within ten (10) calendar days of the last day of the cycle for which the Document/Report is due (i.e. monthly / quarterly / annually). The County shall have final approval authority for all documentation and report formats. The County, or any of its duly authorized representatives shall have access within seven (7) calendar days of written notification to all Contractor’s books, records, data and documents related to the Contract for inspection and audit at the Contractor’s expense.

1. Monthly Performance Reports (to be submitted with invoices:

- a. Vehicle Delivery log with Curbside Program Residential Tonnage (inbound tonnage).
 - b. Listing/Discussion of any concerns received and resolution as applicable.
 - c. Noteworthy events.
2. Quarterly Performance Reports:
 - a. Upon request, Roll-up of the monthly report data including 3 prior quarters for comparison.
 - b. Summary of complaints, noteworthy events, market conditions, etc.
 - c. Breakdown of materials processed and removed from the facility (outbound) by material type, including materials sold, contamination and residue.
3. Annual "State of Recycling" Report – upon request, provide annual reports on the ongoing state, performance, and evolving trends in recycling in the County's Service Area and the recycling industry in general. This annual "State of Recycling" must include, but is not limited to:
 - a. Collection and recovery volumes by material type (in format that is consistent with FDEP Annual Reporting Requirements).
 - b. Green initiatives, pollution and environmental protection actions undertaken.
 - c. Use of subcontractors, if any.
 - d. Issues for discussion with the County.
 - e. Market conditions and factors impacting recycled materials.
 - f. Company audits and financial condition (Most recent audited financial statements).
 - g. Status/Condition of the MRF(s) and other infrastructure used in this contract.
 - h. Discussion of any applicable additional services provided.

2.11 Recyclable Materials Composition Study

In order to confirm the accuracy and reliability of tonnages processed, the Contractor will hire and compensate a mutually agreed upon independent 3rd party entity with relevant experience and expertise to conduct a Recyclable Materials Composition Study that complies with applicable industry standards. Such studies will be conducted not less than once per year and one-half of the cost will be billed to the County in the month following the studies. The Contractor and the County will work with the independent 3rd party entity to resolve any statistically significant deviations from program tonnages reported by the Contractor. At the County's sole discretion, the County has the right to conduct additional studies, not sooner than 180 days from any previous study, at no cost to the Contractor, with a mutually agreed upon independent 3rd party entity with relevant experience and expertise to conduct a Recyclable Materials Composition Study that complies with applicable industry standards.

After completion of each Recyclable Materials Composition Study, the current Contamination/Residue percentage (%), as reflected in the AMV calculations table shown in Section 2.12.1, shall be adjusted consistent with the results of the most recent Recyclable Materials Composition Study and become effective no later than 30 days from receipt of the Study results.

2.12 Payment and Revenue Share

2.12.1 Payment

The Contractor shall receive a Processing Fee for 100% of all tonnage delivered by or on behalf of the County during the preceding month, minus the Average Material Value (AMV) for the AMV for that respective month as calculated below:

As per the above sample calculation, all materials shall be adjusted monthly according to the publicly available indices listed in the chart titled "Average Material Value Indices". The only exception being the Contamination/Residue category, which shall be adjusted as follows: Material % will be adjusted based on the Recyclable Materials Composition Study results and the Material Value (cost charged) will be adjusted based on the annual CPI adjustment at the same time and same percentage rate as the Processing Fee. The initial negotiated cost for the Contamination/Residue charge is \$65.33/ton to the County and the Material % is 39.90%.

The table below is for information purposes only and identifies the acceptable program materials and Published Indexes utilized to calculate the AMV.

Miami-Dade County example

Average Material Value (AMV)

January 2024 Values

Material	Index Description	Jan 2024 Market Index	Market Value (\$/Ton)	Material %	Average Material Value (\$/Ton)
Mixed Paper	PS 54 Mixed Paper (MP)	\$ 52.50	\$ 52.50	13.80%	\$ 7.25
OCC	PS 11 Corrugated Containers	\$ 95.00	\$ 95.00	25.10%	\$ 23.85
Aluminum	Metals Aluminum Cans (Sorted, Baled, ¢/lb, picked up)	\$ 61.50	\$ 1,230.00	1.10%	\$ 13.53
Steel-Tin	Metals Steel Cans (Sorted, Baled, ¢/Gross ton, picked up)	\$ 220.00	\$ 220.00	1.50%	\$ 3.30
PET	Plastics PET (Baled, ¢/lb, picked up)	\$ 13.50	\$ 270.00	4.10%	\$ 11.07
HDPE Natural	Plastics Natural HDPE (Baled, ¢/lb, picked up)	\$ 30.50	\$ 610.00	1.20%	\$ 7.32
HDPE Colored	Plastics Colored HDPE (Baled, ¢/lb, picked up)	\$ 22.00	\$ 440.00	2.10%	\$ 9.24
Plastics #3-#7	Plastics Commingled (#3-7, Baled, ¢/lb, picked up)	\$ 0.50	\$ 10.00	0.20%	\$ 0.02
Aseptic - Gable Top	PS 52 Aseptic Cartons	-	-	0.60%	\$ -
Three Mix Glass	Glass 3 Mix (\$/ton del. as Recyclable or Disposable)	\$ (32.50)	\$ (32.50)	10.40%	\$ (3.38)
Contamination/Residue*	Actual Cost to handle, Transport, and Dispose of Contamination/Residue	\$ (65.33)	\$ (65.33)	39.90%	\$ (26.07)
				100.0%	\$ 46.12

Comments: Regional Average prices used from Secondary Fiber Pricing and Secondary Material Pricing.

*Excessive Contamination pricing is based on actual T&D costs of residue. This cost to be adjusted annually by the same CPI adjustment as the Processing Fee.

Processing Fee \$145.00/ton

minus \$43.95 ton -- AMV

\$98.88/ton Net Payment to WM

Miami-Dade County, FL

Average Material Value Indices

A	B	C
Simple 5 Category	Generic Reference	Published Index (Name)*
Paper	ONP	PS 54 Mixed Paper (MP)
	Magazines & Catalogs	PS 54 Mixed Paper (MP)
	Mixed Paper	PS 54 Mixed Paper (MP)
Cardboard	OCC	PS 11 Corrugated Containers
	Paperboard	PS 11 Corrugated Containers
Cans	Steel / Tin Cans	SMP Metals Steel Cans (Sorted, Baled, \$/Gross ton, picked up)
	Aluminum Can	SMP Metals Aluminum Cans (Sorted, Baled, c/lb, picked up)
Cartons	Aseptic polycoated drink boxes & cartons	PS 52 Aseptic & Gable Top Cartons
Bottles	Glass	SMP Glass 3 Mix (\$/ton del. as Recyclable or Disposable)
	PET	SMP Plastics PET (Baled, c/lb, picked up)
	Natural HDPE	SMP Plastics Natural HDPE (Baled, c/lb, picked up)
	Colored HDPE	SMP Plastics Colored HDPE (Baled, c/lb, picked up)
	Mixed Plastics (#3-#7)	SMP Plastics Commingled (#3-7, Baled, c/lb, picked up)
Other	Contamination / Residue	\$65.33 WM Actual Cost as Proposed and Negotiated*

"PS" means the average price published at www.Secondaryfiberpricing.com for the SE region, domestic price, 1st issue of the month retroactive to the first of the month.

"SMP" means the average price published at www.Secondaryfiberpricing.com for the Atlanta (Southeast USA) region, first dated price of each month, retroactive to the first of the month.

If PS or SMP (or both) is no longer reflective of prevailing market conditions or if an alternative publication more accurately reflects such market conditions, then contractor may substitute such alternative publication(s) or alternate method to determine the value of each commodity set forth.

*The Cost for Contamination / Residue charge will be subject to the same CPI adjustment as the processing fee on the contract anniversary date each year

Processing Fees may be reduced in accordance with the Performance Guarantees outlined in Section 2.13.

2.12.2 Revenue Sharing

The County desires a revenue share for the revenues from sales of recyclable materials generated in the previous month. The County's percentage share shall be deducted from the previous month's Processing Fee per ton and be submitted to the County by the Contractor on or before the 15th of the month following the month the recyclables were processed. If the value of AMV is larger than the Processing Fee, then it will result in a credit/rebate credited to the County and shall be reflected in the invoice submitted.

2.13 Performance Guarantees

The parties acknowledge that in the event of a default in performance by the Contractor, it is likely that the County will suffer damages for which it is entitled to be compensated. Certain damages may be reasonably ascertained. Others shall consist of intangible losses which are difficult to accurately calculate and assess. Examples include but are not limited to the cost of replacing the service, general and administrative costs, and loss of "good will" in the community. In the event the Contractor fails to satisfactorily comply with all of the terms and conditions of the contract resulting from this RFP process, the Contractor shall be liable for, and the County may assess, the below listed sums as Performance Guarantees. Performance Guarantees shall be assessed based on the findings of the County's Project Manager during the course of this Contract. Additionally, the County, at its discretion, may find the Contractor in default of the contract for performance standard violations.

Performance Standard Violation	Performance Guarantees Fees
Failure of Facility to meet operating permit requirements or other applicable laws and regulations of Miami-Dade County and/or the appropriate jurisdiction, the State of Florida, or the Florida Department of Environmental Protection	\$500 per day after the first 8 hours
Failure of Facility to accept program material delivery vehicles in a timely manner	\$500 per day
Non-Operational / Non-calibrated Scales	\$500 per day after 120-minute grace period

Failure to arrange for marketing and shipping of materials beyond the time required to consolidate and prepare for shipping	\$500 per day
Failure to submit monthly, quarterly, and annual reports as specified in the Contract	\$50 a day starting on the third day and doubling each subsequent day

2.14 **Optional Services**

From time to time throughout the life of the contract, the County may elect to add optional services to the scope of work. Optional services that may be added at the County discretion, include but not limited to the following:

- Accepting materials generated in a County multi-family residential program and County facilities.
- Accepting Dual Stream curbside materials.
- Accepting materials from County-sponsored or organized commercial programs.
- Accepting segregated materials (e.g., glass only, corrugated only, paper only, metals only, etc..)
- Pilot or special studies - The County may, from time to time, elect to conduct a limited study of selected routes to evaluate potential improvements to the curbside program, either to generate more materials, improve the material quality or evaluate results of efforts to target enforcement or educational initiatives on one or more routes. Alternatively, the County may elect to study the collection of one or more segregated materials (mixed paper only, corrugated only, beverage containers only, etc.) and deliver these materials to the MRF. Evaluation of such initiatives may require one or more activities on the part of the Contractor, either involving materials handling or related administrative tasks.

Any optional services that may be added at a later date will be negotiated with the Contractor and added to the contract via a formal written supplement.

APPENDIX B – PRICE SCHEDULE AND REVENUE

1. Per Section 2.12.1 and 2.12.2, cost per ton and percentage revenue sharing:

Cost (\$) per Ton for Processing	\$145.00
Cost (\$) per Ton for Processing for all direct deliveries of materials to the Waste Management, Reuter facility located at 20701 Pembroke Rd, Pembroke Pines, FL 33029	\$125.00
Percentage (%) Revenue Sharing	<u>100</u> %

2. Per Section 2.9 Proposer Efforts to Reduce Contamination, the Contractor will assist the County in funding the educational and outreach campaign.

Proposer's funding for the educational and outreach campaign	
Initial Term	Provide below the cumulative total funding for educational campaign and outreach the Proposer is Proposing to contribute for Initial Term. \$ <u>500,000.00</u> ☐ Check box if Proposer will provide the entire proposed funds for the educational campaign and outreach at the start of the initial term. ☒ Check box if Proposer will not provide the entire proposed funds for the educational campaign and outreach at the start of the initial term. Furthermore, complete the below indicated how funds will be provided. Indicated amount that will be provided at the start of the initial term \$ <u>100,000.00</u> Indicated amount to be provided after the start of the initial term \$ <u>100,000.00</u> and the frequency of disbursements (monthly, yearly, etc.); if applicable <u>yearly</u>.
Option to Renew (OTR) Term	Provide below the cumulative total funding for educational campaign and outreach the Proposer is Proposing to contribute for OTR Term. \$ <u>500,000.00</u> ☐ Check box if Proposer will provide the entire proposed funds for the educational campaign and outreach at the start of the initial term. ☒ Check box if Proposer will not provide the entire proposed funds for the educational campaign and outreach at the start of the OTR term. Furthermore, complete the below indicated how funds will be provided. Indicated amount that will be provided at the start of the OTR term \$ <u>100,000.00</u> Indicated amount to be provided after the start of the OTR term \$ <u>100,000.00</u> and the frequency of disbursements thereafter, if applicable (monthly, yearly, etc.) <u>yearly</u>.

APPENDIX C – COMMON CARRIER OR CONTRACTED CARRIER ATTESTATION FORM

This form must be executed by Contractor and provided to the County when entering, amending, or renewing this Contract. Capitalized terms used herein have the definitions ascribed in section 908.111, F.S.

Waste Management Inc. of Florida is not willfully providing and will not willfully provide any service during the Contract term in
Common Carrier or Contracted Carrier

furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: David M. Myhan

Title: President

Signature:



Date: October 10, 2023

Memorandum



Date: June 28, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Subject: Request to Process Late Departmental Agenda Item

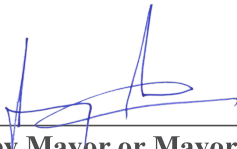
Digitally signed by
Namita Uppal
DN: cn=Namita Uppal,
o=Miami Dade County,
ou=Chief Procurement
Officer,
email=uppaln@miamid
ade.gov, c=US
Date: 2024.06.24
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I am requesting that the resolution approving Contract Nos. EVN0000147, EVN0000148-Z1, EVN0000148-Z2, and EVN0000148-Z3 for the Department of Solid Waste Management's Curbside Recycling Program (Program) be processed for agenda placement on the July Committee Cycle.

Although this item has not met the noticed deadline and has been provided to the Agenda Coordination Office late, this item is time sensitive and critical for the County. The existing 2-year Program agreements, which were extended by the Board of County Commissioners (Board) in March 2023, are expiring in March 2025. It is crucial that we act promptly to ensure a smooth transition and uninterrupted services. The collection contracts stipulate the purchase of new trucks for each zone, which should be ready for service at contract commencement. The private haulers are awaiting Board approval before making this investment. They will place orders as soon as possible, but the vehicle build schedules and delivery times are still around 12 to 18 months. In addition, a new vendor is being recommended for award of Zone 2. Their services will require a learning curve, and a definitive start date must be established so the incumbent has the proper time to exit and transition to the new vendor.

The existing recyclables processing agreement includes paying a processing fee, and while the recyclables are being sold, the County is not receiving any of the proceeds. In the proposed new processing agreement, all recyclables sold as a result of the "Average Material Value" will be 100% given back to the County as a rebate. This change ensures a positive financial benefit for the County.

Therefore, please process the item notwithstanding that the 3-day rule may be applicable to it. I am aware that this item is subject to approval for placement on the agenda by the appropriate committee chairperson as well as the Board Chairman, and review by the Office of the County Attorney.


Approved by Mayor or Mayor's Designee

Jimmy Morales

Print Name


Approved by Legislative Director or Designee

Nicole Tallman

Print Name

c: Geri Bonzon-Keenan, County Attorney
CAOagenda@miamidade.gov
Eugene Love, Agenda Coordinator



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 16, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(P)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☒ Applicable legislation requires more than a majority vote (i.e., 2/3's present ☒, 2/3 membership ☐, 3/5's ☐, unanimous ☐, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ☐, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ☐, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ☐ to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(2)
7-16-24

RESOLUTION NO. R-680-24

RESOLUTION APPROVING AWARD OF COMPETITIVE CONTRACT NOS. EVN0000148-Z1, EVN0000148-Z2, AND EVN0000147, IN A CUMULATIVE AMOUNT NOT TO EXCEED \$197,851,408.00; AUTHORIZING A NON-COMPETITIVE DESIGNATED PURCHASE PURSUANT TO SECTION 2- 8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT FOR CONTRACT NO. EVN0000148-Z3 IN AN AMOUNT NOT TO EXCEED \$91,511,960.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND EXERCISE ALL PROVISIONS OF THE CONTRACTS, INCLUDING ANY CANCELLATIONS, RENEWALS OR EXTENSIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

WHEREAS, the County Mayor recommends to this Board to authorize additional expenditure authority for the purchase of services,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board authorizes award of competitively established contracts as set forth in Items 1.1. (EVN0000148-Z1), 1.2 (EVN0000148-Z2), and 1.4 (EVN0000147) of the incorporated memorandum in a cumulative amount not to exceed \$197,851,408.00.

Section 2. This Board authorizes a non-competitive designated purchase contract as set forth in Item 1.3 (EVN0000148-Z3) of the incorporated memorandum pursuant to section 2-8.1(b)(3) of the Code of Miami-Dade County, by a two-thirds vote of the Board members present, in an amount not to exceed \$91,511,960.00.

Section 3. This Board authorizes the County Mayor or County Mayor’s designee to execute the agreements, in substantially the forms attached and made a part hereof, and to exercise all provisions of the contracts, including cancellations, renewals or extensions, pursuant to section 2-8.1 of the Code of Miami-Dade County, Florida, and Implementing Order 3-38.

The foregoing resolution was offered by Commissioner **Raquel A. Regalado** , who moved its adoption. The motion was seconded by Commissioner **Juan Carlos Bermudez** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	absent	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	absent	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of July, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

mjs

Melanie J. Spencer