REQUEST FOR PROPOSAL

FOR

SOLID WASTE AND RECYCLING COLLECTION SERVICES
SERVICE AREA 6

RFP NO. 19-203/SLB

SEPTEMBER 2018

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
7501 NORTH JOG ROAD
WEST PALM BEACH, FLORIDA 33412
(561) 640-4000
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1. **PURPOSE**

   The purpose of this Request for Proposal (RFP) is to solicit formal written Proposals from experienced and qualified individuals, corporations, partnerships and other legal entities (PROPOSER) to provide Solid Waste and Recycling Collection Services – Service Area 6 for the Solid Waste Authority of Palm Beach County (AUTHORITY).

2. **BACKGROUND**

   A. The AUTHORITY was established in 1975 by the Florida State Legislature under the Palm Beach County Solid Waste Act, Chapter 2001-331. The AUTHORITY is a dependent Special District governed by the seven elected County Commissioners of Palm Beach County, Florida. The governing board members are elected for terms as determined in the Solid Waste Act.

   B. The AUTHORITY is the governmental agency responsible for providing an economical and environmentally conscious integrated Solid Waste Management System for Palm Beach County, Florida. With approximately 400 employees, the AUTHORITY provides solid waste disposal and recycling services and programs to the County’s 1.4 million residents and businesses. The AUTHORITY also provides solid waste and recycling collection services to the residents and businesses in unincorporated Palm Beach County through private haulers under exclusive franchise agreements.

   C. The AUTHORITY has built an award-winning integrated system of facilities that combines recycling, renewable energy and landfiling to effectively manage the county's waste. The AUTHORITY’S system includes two waste-to-energy facilities, landfills, a materials recycling facility, a bio-solids processing facility, seven household hazardous waste collection facilities and a network of six (6) transfer stations.

3. **SELECTION PROCESS AND EVALUATION**

   The selection process will be conducted by the Evaluation Committee in accordance with, but not limited to, the methods and criteria described in Part IV – Proposal Evaluation and Award.

4. **PROCUREMENT SCHEDULE**

   A summary schedule of the major activities associated with the AUTHORITY’S procurement process for this Project is presented in Table 1 – Procurement Schedule. The AUTHORITY, at its sole discretion, may modify the schedule as it deems appropriate in furtherance of the purpose of this RFP. The AUTHORITY will notify of any changes in association with submittal dates by written Addenda in accordance with Part I, Section 8 – Addenda.
### TABLE 1 - PROCUREMENT SCHEDULE

<table>
<thead>
<tr>
<th>NO.</th>
<th>ACTIVITY</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Request for Proposal (RFP)</td>
<td>September 24, 2018</td>
</tr>
<tr>
<td>2</td>
<td>Mandatory Pre-Proposal Conference #1</td>
<td>October 2, 2018</td>
</tr>
<tr>
<td>3</td>
<td>Last Date for Authority to receive inquiries – Pre-Proposal Conference #1</td>
<td>October 5, 2018</td>
</tr>
<tr>
<td>4</td>
<td>Issue Pre-Proposal Addendum #1 - Minutes &amp; responses to inquiries</td>
<td>October 12, 2018</td>
</tr>
<tr>
<td>5</td>
<td>Mandatory Pre-Proposal Conference #2</td>
<td>October 17, 2018</td>
</tr>
<tr>
<td>6</td>
<td>Last Date for Authority to receive inquiries – Pre-Proposal Conference #2</td>
<td>October 19, 2018</td>
</tr>
<tr>
<td>7</td>
<td>Issue Pre-Proposal Addendum #2 - Minutes &amp; responses to inquiries</td>
<td>October 24, 2018</td>
</tr>
<tr>
<td>8</td>
<td>Proposals Due</td>
<td>December 4, 2018</td>
</tr>
<tr>
<td>9</td>
<td>Evaluation Committee Meeting – Awards Posted</td>
<td>December 13, 2018</td>
</tr>
<tr>
<td>10</td>
<td>Evaluation Committee Meeting Results Posted – End of 5 day Protest Period</td>
<td>December 18, 2018</td>
</tr>
<tr>
<td>11</td>
<td>Board Approval of Contract Hearing of any Proposals Protests</td>
<td>February 13, 2019</td>
</tr>
<tr>
<td>12</td>
<td>Services start</td>
<td>October 1, 2019</td>
</tr>
</tbody>
</table>

5. **MANDATORY PRE-PROPOSAL CONFERENCE**

The AUTHORITY will hold two (2) MANDATORY Pre-Proposal conferences in the Auditorium of the AUTHORITY’S Administrative Offices located at 7501 N. Jog Road, WPB, FL 33412. The first conference will be on Tuesday, October 2, 2018 at 1:00 p.m. EST. The second conference will be on Wednesday, October 17, 2018 at 1:00 p.m. EST. open to all interested parties, at which time the AUTHORITY Staff will be present to answer questions and explain the purpose and intent of the RFP Documents.

All potential PROPOSERS or their representatives **must attend both Mandatory Pre-Proposal conferences.** All potential PROPOSERS **must remain in attendance until the conclusion of each conference.** The purpose of these mandatory pre-proposal conferences is to explain the complex method of selection, to provide an overview of the service requirements in the franchise agreement, to highlight the difficulties of servicing certain geographic areas, to explain the disposal credit process, and to solicit comments. Potential PROPOSERS that do not attend both conferences shall be disqualified from continuing in the competition and the AUTHORITY will not accept Proposals from such disqualified PROPOSERS.

Any conclusions reached at this conference, which amend the RFP documents, will be issued in the form of an Addendum.

6. **PROPOSAL SUBMISSION AND WITHDRAWAL**

A. The AUTHORITY must receive one (1) original, so designated, one (1) CD, or USB drive, and five (5) copies **no later than 2:00 P.M.,** Eastern Time, on the date established in Part I, Section 4 – Procurement Schedule, at the following address:

Mrs. Saundra Brady, MPA, CPPB, Director, Purchasing Services  
Solid Waste Authority of Palm Beach County  
7501 North Jog Road  
West Palm Beach, FL 33412
B. The AUTHORITY cautions those submitting Proposals to assure actual delivery of mailed or hand-delivered Proposals directly to the AUTHORITY’S Purchasing Services office at 7501 North Jog Road in West Palm Beach, Florida, prior to the deadline set for receiving Proposals. If the Proposal is hand delivered, deposit it with the Purchasing Specialist in the Administration Building. Telephone confirmation of timely receipt of the Proposals may be made by calling (561) 640-4000 ext. 4527 before the deadline. All Proposals received after the established deadline will be rejected and returned unopened.

C. PROPOSER(S) may withdraw their Proposal by notifying the AUTHORITY’S Purchasing Services office in writing at any time prior to the time set for the Proposals receipt deadline. PROPOSERS may withdraw their Proposals in person or through an authorized representative. Proposals, once opened, become the property of the AUTHORITY and will not be returned to the PROPOSERS.

7. COMMUNICATION PROTOCOL

All questions and communications concerning this procurement process must be directed to Mrs. Saundra Brady, CPPB, Director, Purchasing Services. All requests for clarifications or additional information must be submitted in writing via electronic mail to sbrady@swa.org or by facsimile to 561-640-3400. All questions shall be submitted no later than the date specified in Table 1 – Procurement Schedule. The AUTHORITY will record its responses to questions, if any, and address them in the form of a written Addendum.

8. ADDENDA

A. Should revisions to the RFP become necessary, the AUTHORITY will issue written Addenda. All Addenda must be acknowledged. This Acknowledgement must be included in Proposal Form 1 – Transmittal Letter. PROPOSER’S submittal may be rejected as non-responsive if PROPOSER has failed to submit Proposal without Addenda Acknowledgement.

B. All PROPOSERS should contact the AUTHORITY no more than five (5) calendar days before the due date for submitting Proposals to ascertain whether any Addenda have been issued. Failure of the PROPOSER to make this inquiry could result in its Proposal being non-responsive in the event addenda were issued and not acknowledged by the PROPOSER in their submittal.

C. No Addenda will be issued later than five (5) calendar days prior to the due date for receipt of Proposals except an Addendum withdrawing the RFP or one that includes postponement of the date for receipt of Proposals.

9. RIGHTS OF THE AUTHORITY

This RFP constitutes an invitation for submission of Proposals to the AUTHORITY. This RFP does not obligate the AUTHORITY to procure or contract for any of the scopes of services set forth in this RFP. The AUTHORITY reserves and holds at its sole discretion, various rights and options under Florida law, including without limitation, the following:

- To prepare and issue addenda to the RFP that may expand, restrict, or cancel any portion or all work described in the RFP without obligation to commence a new procurement process or issue a modified or amended RFP;
- To receive questions from potential PROPOSERS and to provide such answers in writing as it deems appropriate;
- To waive any informalities, technicalities or irregularities in the Proposals submitted;
- To reject any and all Proposal submissions;
- To change the date for receipt of Proposals or any deadlines and dates specified in the RFP;
• To change the procurement and/or Selection process prior to receipt of Proposals;
• To conduct investigations with respect to the information provided by each PROPOSER and to request additional information (either in writing or in presentations and interviews) to support such PROPOSER’S responses and submittals;
• To visit facilities referenced in the PROPOSER’S submittal at any time or times during the procurement process;
• To seek clarification of Proposals from the PROPOSERS either in writing or in presentations and interviews, and;
• To cancel the RFP with or without the substitution of another RFP.

10. PROPOSAL PREPARATION COSTS

The AUTHORITY accepts no liability for costs and expenses incurred by the PROPOSER in preparation and submission of Proposals and responses to clarifications from the AUTHORITY, potential site visits and interviews, negotiations, future RFP or any other work performed in connection with the Proposal. Each PROPOSER that enters into the procurement process shall prepare the required materials and submittals at its own expense and with the express understanding that they cannot make any claims whatsoever for reimbursement from the AUTHORITY for the costs and expenses associated with the process. PROPOSER should prepare their submittal providing a straightforward and concise description of the PROPOSER’S ability to meet the requirements of the RFP. Unnecessarily elaborate brochures, art work, expensive paper, bindings, visual and other presentation materials, beyond that sufficient to present a complete and effective response to this RFP is not desired.

11. INTERPRETATIONS

A. The AUTHORITY will not be bound by or responsible for any explanation or interpretation of the RFP documents other than those given in written addenda. In no event shall PROPOSERS rely on any oral statement by the AUTHORITY, its staff, agents, advisors, or consultants.

B. Any PROPOSER that submits in its Proposal to the AUTHORITY any information which is determined to be substantially inaccurate, misleading, exaggerated, or incorrect, may be disqualified from consideration.

12. NON–COLLUSION AFFIDAVIT

The PROPOSER is required to submit Proposal Form 3 – Non-Collusion Affidavit stipulating Agreement to the following: “PROPOSER certifies that its Proposal is made without previous understanding, agreement, or connection with any person, firm, or corporation making a Proposal for the same item(s) and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action”.

13. PUBLIC ENTITY CRIMES

Pursuant to Section 287.133(2)(a), as amended: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal on a contract to provide any goods or services to a public entity, may not submit a bid, proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, provider supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
14. PUBLIC RECORDS ACT/INFORMATION DISCLOSURE TO THIRD PARTIES

A. Sealed bids, proposals, SOQs, or replies received by the AUTHORITY pursuant to a competitive solicitation are exempt from disclosure pursuant to s.119.07(1) and s.24(a), Article I of the State Constitution until such time as the AUTHORITY provides notice of an intended decision or until thirty (30) days after opening the bids, proposals, SOQs, or final replies, whichever is earlier. As such, the AUTHORITY shall not in any way be liable or responsible for the disclosure or result of disclosure of any submissions or portions thereof submitted in response to the RFP.

B. The law provides for certain exclusions to disclosure. If the PROPOSER believes that some information contained in their Proposals is exempt from disclosure, the PROPOSER is instructed to label such information as confidential, specify the pertinent section of the public record law that justifies nondisclosure, and request in writing the AUTHORITY keep such information confidential and free from disclosure. The AUTHORITY reserves the right to make any final determination of the applicability of the public records law. In addition, all Proposals received by the submission date will become the property of the AUTHORITY and will not be returned.

C. Oral presentations, meetings where PROPOSER(S) is/are answering questions, negotiations, and AUTHORITY meetings to discuss negotiation strategy are exempt from public access by Statute.

15. POSTING OF RECOMMENDATION FOR AWARD

A. Recommendation for Award will be posted on the date of the Evaluation Committee meeting for a period of five (5) calendar days. Failure to file a protest to the Director of Purchasing Services within the time prescribed, as more fully detailed in the AUTHORITY'S Purchasing Manual, Section 10 shall constitute a waiver of proceedings.

B. It is the PROPOSER’S sole responsibility to ascertain the time and date of posting of the Recommendation for Award. This may be accomplished by telephone, fax, e-mail, or other means deemed timely by the PROPOSER.

16. PROTEST PROCEDURES

A. Any PROPOSER aggrieved by the decision of the Evaluation Committee or the franchise award recommendation, as applicable, may appeal such decision/recommendation within five (5) calendar days of the date of posting by filing a formal written Protest with the AUTHORITY'S Director of Purchasing Services. Such formal written Protest must be received by the Director of Purchasing Services at 7501 N. Jog Road, West Palm Beach, Florida before 5:00 p.m. of the fifth calendar day following the posting of the Evaluation Committee's decision or franchise award recommendation, as applicable. Failure of the PROPOSER to file a timely formal written Protest within the time specified shall constitute a waiver by the PROPOSER of all rights to Protest. The formal written Protest must provide documentation which shall specify in detail the nature of the grievance and the grounds upon which any relief, modification or change is based. Such appeal shall also be addressed to the Chair of the Governing Board of the AUTHORITY with a copy to the AUTHORITY Executive Director. At the time of filing the formal written Protest, PROPOSER shall post a bond payable to the AUTHORITY in an amount equal to $10,000, which bond shall be conditioned upon the payment of all costs which may be adjudged against them in the administrative hearing in which the action is brought and in any subsequent appellate court proceedings. The AUTHORITY’S Governing Board shall decide the appeal by written order within thirty (30) days of its receipt by the Chair of the AUTHORITY. Any decision of the Board unfavorable to the appellant may be submitted for review to the Circuit Court of Palm Beach County in accordance with the Florida Rules of Appellate Procedure.

B. Nothing contained in this Section shall limit or divest the Governing Board of the Solid Waste Authority of its authority pursuant to the Special Act or general law.
17. **INSURANCE**

The awarded PROPOSER(S) shall maintain insurance coverage reflecting the minimum amounts and conditions specified in the attached Sample Agreement, Attachment A. In the event the PROPOSER(S) is a governmental entity or a self-insured organization, different insurance requirements may apply. Misrepresentation of any material fact, whether intentional or not, regarding the PROPOSER(S) insurance coverage, policies or capabilities may be grounds for rejection of the proposal(s) and rescission of any ensuing agreement(s).

18. **CONE OF SILENCE**

A. PROPOSERS are advised that a Cone of Silence prohibits any communication, except for written correspondence, regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between PROPOSER(S) or any person representing the PROPOSER(S) and any member of the Solid Waste Authority Governing Board, their staff, any AUTHORITY employee authorized to act on behalf of the AUTHORITY to award the contract under this response, or any member of the evaluation committee authorized to evaluate the response.

B. The Cone of Silence shall be in effect as of the deadline to submit a response even if the response is withdrawn or is otherwise eliminated from consideration consistent with the procedures as outlined in this RFP. The Cone of Silence shall remain in effect until the Governing Board, or AUTHORITY staff, if authorized to act on behalf of the Board, awards or approves the contract, rejects all responses or otherwise takes action which ends the solicitation process.

C. The provisions of this article shall not apply to oral communications at any public proceeding, including pre-bid conference, oral presentations before evaluation committees, and contract negotiations during any public meetings, presentations made to the Board and protest hearings. Further, the Cone of Silence shall not apply to: (a) contract negotiations between AUTHORITY employees and the intended awardees (b) any dispute resolution process following the filing of a protest between the person filing the protest and any AUTHORITY employee or (c) any written correspondence at any time with any AUTHORITY employee, Board member or Advisory Board member, or Evaluation Committee Member, unless specifically prohibited by the applicable competitive solicitation process.

D. The Governing Board by means of action taken at any properly noticed Governing Board meeting may invoke the cone of silence earlier than the time specified in this section for any procurement.

19. **AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES**

PROPOSER(S) submitting a response to this RFP agree that such response also constitutes a response to all government entities recognized under Florida law under the same terms and conditions, for the same prices and for the same effective period as specified in this RFP, should the successful PROPOSER deem it in the best interest of their business to do so. The Agreement(s) resulting from this RFP in no way restricts or interferes with any other government entity’s ability to re-solicit for any or all items specified in this RFP.

20. **SCRUTINIZED COMPANIES**

A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or is engaged in business operations in Cuba or Syria.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by CONTRACTOR, this Contract may be terminated and a civil penalty equal to the
greater of $2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.

B. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by CONTRACTOR, this Contract may be terminated and a civil penalty equal to the greater of $2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.

21. OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General (OIG), Ordinance No. 2009-049 which is authorized and empowered to review past, present and proposed county contracts, transactions, accounts and records. The AUTHORITY has entered into an Inter local Agreement (ILA) for Inspector General Services. This Agreement provides for the Inspector General to provide services to the AUTHORITY in accordance with the authority, functions and powers set out in the Palm Beach County Office of Inspector General Ordinance. All parties doing business with the AUTHORITY and receiving AUTHORITY funds shall fully cooperate with the Inspector General including providing access to records relating to this Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

22. COMMERCIAL NON-DISCRIMINATION POLICY

It is the policy of the AUTHORITY not to enter into a contract or to be engaged in business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor’s supplier’s or commercial customer’s employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in relevant marketplace for Palm Beach County.

23. THIRD PARTY BENEFICIARY DISCLAIMER

It is not the intention of these RFP documents to create third party beneficiary status in any person or entity that is not a direct party to the contract awarded as a result of being the successful PROPOSER, and no language in these RFP documents or the contract awarded pursuant to this RFP should be construed or interpreted as creating a third party beneficiary.

24. DRUG-FREE WORK PLACE

Preference shall be given to a business with Drug-Free Work Place (DFW) programs. Whenever two or more Proposals which are equal with respect to price, quality, and service are received by the AUTHORITY for the procurement of contractual services, a Proposal received from a business that completes the attached DFW form certifying that it is a DFW shall be given preference in the award process.
25. **FUNDING**

The obligations of the AUTHORITY under this award are subject to the availability of funds lawfully appropriated for its purpose.

26. **PERFORMANCE DURING EMERGENCY**

By submitting a Proposal, PROPOSER agrees and promises that, during and after a public emergency, disaster, hurricane, flood, or acts of God, the AUTHORITY shall be given “first priority” for all services under this contract. PROPOSER agrees to provide all services to the AUTHORITY during and after the emergency/disaster at the terms, conditions, and prices as provided in this solicitation and with a priority above and preference over services to the private sector.

27. **PAYMENT**

The AUTHORITY or its designee will be responsible for the billing and collection of payments for Residential Solid Waste Collection Service. The Contractor shall be responsible for billing and collection of payments for Commercial Solid Waste Collection Service. Contractor shall also be responsible for billing and collection of payments for Special Services related to Residential Solid Waste Collection Service.

28. **PERMITS AND LICENSES**

The Contractor shall obtain, at their own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect throughout the Term of this Agreement. Any changes of the licenses or permits shall be reported to the AUTHORITY within ten (10) Business Days of the change. Failure to obtain and maintain all permits and licenses, including but not limited to any permit or license which may in the future be required by the AUTHORITY to engage in the business of Collection in Palm Beach County, shall constitute an event of default.

29. **INDEPENDENT CONTRACTOR RELATIONSHIP**

The successful PROPOSER is, and shall be, in the performance of all work, services, and activities under this Contract, an Independent Contractor and not an employee, agent, or servant of the AUTHORITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the successful PROPOSER’S sole direction, supervision, and control. The successful PROPOSER shall exercise control over the means and manner in which it and its employees perform the work and in all respects, the successful PROPOSER’S relationship, and the relationship of its employees, to the AUTHORITY shall be that of an Independent Contractor and not as employees or agents of the AUTHORITY.

30. **EQUAL BUSINESS OPPORTUNITY PROGRAM**

A. The Governing Board of the AUTHORITY has implemented the Economic Inclusion Policy administered by the Equal Business Opportunity (EBO) Program Office to ensure that all segments of its business population, including, but not limited to small, local, minority, and women-owned businesses, have an equitable opportunity to participate in the AUTHORITY’S procurement process, in accordance with Section 6 of the Purchasing Manual, is incorporated herein. In addition, program tools and solicitation incentives are hereby referred to as the Affirmative Procurement Initiatives (API).

B. Each solicitation will be evaluated to determine the appropriate Affirmative Procurement Initiatives (API) Program which will be outlined in detail in Part III “Proposal Submission Requirements” of this solicitation. Failure to meet the API requirement will deem the PROPOSER’S response as non-responsive.
C. CONTRACTOR / VENDOR WAIVER REQUEST

1. If a PROPOSER is unable to comply with the API requirements of this solicitation, PROPOSER shall submit a request for a waiver or partial waiver at the time the Proposal is due. The waiver request shall include specified documentation which demonstrates a Good Faith Effort (as defined in the Purchasing Manual, is incorporated herein) to comply with the requirements as described under the selected APIs. PROPOSER shall use Proposal Form 7 for this waiver request which shall constitute part of your proposal and the proposal evaluation and selection process.

2. Post-Award Vendor Subcontracting Waiver Request

If, after award of a contract, the contractor is unable to meet the participation requirements for S/M/WBEs specified at response submittal, the contractor must seek substitute or additional S/M/WBEs to fulfill the requirements; the requested substitution must be approved by the Coordinator of the EBO Office or designee and the Originating Department Director or designee. If, after reasonable Good Faith Efforts, the contractor is unable to find an acceptable substitute or additional S/M/WBE, a post-award waiver may be requested. The request shall document the reasons for the contractor's inability to meet the goal requirement. In the event the contractor is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute or additional S/M/WBE for the initial S/M/WBE proposed utilization, the contract may, in the AUTHORITY’S sole discretion, be terminated for material breach. If requesting a post-award vendor subcontracting waiver, the vendor must request waiver of a specified subcontracting goal by submitting a Post-Award Vendor Subcontracting Waiver Request Form. Documentation and supporting evidence of all good faith efforts made to comply with the subcontracting goal must also be submitted.

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1. SCOPE OF WORK

A. The Contractor shall provide mandatory Residential Solid Waste Collection Services and Residential Recycling Collection Services for Service Area 6 (location map enclosed). The right to provide such Collection Services in Service Area 6 shall be exclusive to the Contractor.

B. The Contractor shall provide Commercial Solid Waste Collection Services for Service Area 6, which shall be an exclusive right to the Contractor. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Services and disposal costs not being billed and collected by the AUTHORITY or its designee.

C. Roll-off Collection Services shall not be exclusive to the Contractor. Vegetative Waste and Construction and Demolition Debris (C&D) shall not be exclusive to the Contractor.

Collection of Solid Waste contained in roll-off containers for businesses in the Service Area is exclusive to the Contractor.

D. The Contractor shall provide Commercial Recycling Collection Services for Service Area 6 upon request by the Customer or the AUTHORITY, or through the solicitation efforts of the Contractor. However, Commercial Recycling Collection Services are not exclusive to the Contractor for Service Area 6.

E. The Contractor shall use good faith and its best efforts to cooperate with any commercial recycling haulers collecting Source Separated Recovered Materials from commercial customers within Service Area 6.

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1. PROPOSAL SUBMISSION REQUIREMENTS AND FORMAT

A. The AUTHORITY must receive all Proposals at the date and time listed in Procurement Schedule, Section 4, Table 1. PROPOSERS shall submit one (1) original, so designated, one (1) CD, or USB drive, and five (5) photocopied sets. The complete Proposal Package shall be submitted in a sealed envelope.

B. The Proposal Package shall be clearly labeled on the outside with the PROPOSER'S name and address, and shall be identified as follows: RFP No. 19-203/SLB – Solid Waste and Recycling Collection Services, Service Area 6. Failure by the PROPOSER to provide the above information on the outside of the envelope may result in the rejection of the PROPOSER'S submittal.

C. Original and photocopies should be bound into spiral bound or three-ring binder. Proposal pages should be numbered. Marketing brochures or any other information not pertaining to this RFP shall not be included in the Proposal.

D. Proposals should demonstrate that the PROPOSER is qualified to perform the Scope of Work based upon relevant professional experience.

2. CONTENT

The PROPOSER shall provide the appropriate information in accordance with the content requirements set forth in the following subsections. To allow the Evaluation Committee to more effectively review the Proposals, PROPOSERS are to provide all requested information in the order and in the format requested below.

2.1 Title Page

The Title Page shall include the RFP Title and Number. The page shall indicate clearly the name of the PROPOSER submitting the Proposal and the name, address, phone number, fax number and e-mail address of the PROPOSER'S designated contact person. The PROPOSER'S designated contact person is the individual who shall be the main point of contact for the AUTHORITY to communicate with regarding this procurement.

2.2 Table of Contents

2.3 General Information

PROPOSER shall provide completed Proposal Forms 1 – 10 as follows:

2.3.1 Proposal Form 1 – Transmittal Letter

PROPOSER shall submit a completed Proposal Form 1 – Transmittal Letter acknowledging, among other things, that the PROPOSER has completely reviewed, understands, and agrees to be bound by the requirements of this RFP. The Proposal Transmittal Letter shall be signed by a representative of the PROPOSER who is empowered to sign it and to commit the PROPOSER to the obligations contained in the Proposal.
2.3.2 **Proposal Form 2 – Price Proposal**
   a. PROPOSER shall submit a completed Proposal Form 2 – Price Proposal. The quantities used in the Proposal Form 2 – Price Proposal are estimated. PROPOSER shall provide a price on every item to be considered in the evaluation of his/her submittal.
   
b. The AUTHORITY reserves the right to request: additional pricing, explanations for any out-of-balance pricing, explanations for any pricing it deems too low or too high, and to negotiate a best and final price with the highest ranked PROPOSER(S).

2.3.3 **Proposal Form 3 – Non-Collusion Affidavit**
PROPOSER shall provide a completed Proposal Form 3 – Non-Collusive Affidavit as described in Part I, Section 12 – Non-Collusion Affidavit.

2.3.4 **Proposal Form 4 – Drug-Free Workplace**
PROPOSER shall provide a completed Proposal Form 4 – Drug-Free Workplace.

2.3.5 **Proposal Form 5 – Small/Minority/Women Business Enterprise (S/MWBE) Subcontractor/Supplier Participation Schedule**
PROPOSER shall provide a completed Proposal Form 5 - Participation of S/MWBE Firms, if applicable.

2.3.6 **Proposal Form 6 – Statement of Intent to Perform as a S/MWBE Subcontractor/Supplier**
PROPOSER shall provide a completed Proposal Form 6 - Statement of Intent to Perform as a S/MWBE Subcontractor/Supplier, if applicable.

2.3.7 **Proposal Form 7 – Subcontracting Goal – Waiver Request**
PROPOSER shall provide a completed Proposal Form 7 - Subcontracting Goal – Waiver Request, if applicable.

2.3.8 **Proposal Form 8 – Certification of Business Location**
PROPOSER shall provide a completed Proposal Form 8 – Certification of Business Location.

2.3.9 **Proposal Form 9 – Qualification Statement**
PROPOSER shall provide a completed Proposal Form 9 – Qualification Statement

2.3.10 **Proposal Form 10 – Operational Plan**
PROPOSER shall provide a completed Proposal Form 10 – Operational Plan
2.4 Minimum Requirements

The PROPOSER shall substantiate in its submittal that it meets or exceeds the following minimum requirements. Failure to do so may be cause for disqualification of its submittal:

a. PROPOSER shall be a Certified M/WBE or Joint Venture (JV) with a Certified-M/WBE JV Partner. The M/WBE Prime, M/WBE JV Partner and all S/M/WBE subcontractors and suppliers shall be certified at the time that bids/proposals are due to the AUTHORITY in accordance with the Equal Business Opportunity Program Policy as defined in the Purchasing Manual, is incorporated herein. All certified firms shall perform a “Commercial Useful Function” on this contract. See Definitions in the Purchasing Manual, is incorporated herein.

b. PROPOSER must have a demonstrated comprehensive understanding in areas listed in this RFP. Understanding and previous experience are essential criteria in the qualifying process;

c. PROPOSER’S personnel and management to be utilized for the services described in this RFP shall be knowledgeable in their areas of expertise. The AUTHORITY reserves the right to perform investigations as may be deemed necessary to insure that competent persons will be utilized in the performance of the contract.

2.5 Management Experience and Operational Plan

Management Experience

PROPOSER shall submit the following:

a. PROPOSER’S Credentials: Details on the qualifications of the firm, including a brief history of the firm, documentation of the firm’s experience providing solid waste and recycling collection services similar to those requested in this RFP and the number of years in business. Qualifications for all sub-contractor(s) should also be included in this section;

b. Expertise of Designated Staff: Describe the qualifications and experience of personnel that will provide these services including demonstrated knowledge and understanding of the types of services to be performed; previous experience in similar or related work, local codes, laws and regulations governing the work;

c. Past Performance: PROPOSER shall provide any information that documents successful and reliable experience in past performance, especially those performances related to the requirements of this RFP. Related experience shall be restricted to those assignments undertaken or performed within the last five (5) years;

d. References: List a minimum of three (3) former references (name, contact persons, telephone number and email address) for similar projects only, who can attest to the firm’s or principals knowledge, quality of work, timeliness, diligence and flexibility. NOTE: Contact persons must be informed by the PROPOSER that they are being used as references and that the AUTHORITY will be contacting them for information. Each reference will be contacted up to three (3) times. If there is no answer after the third attempt, the AUTHORITY may apply no points for that project experience;

e. Current Contracts: PROPOSER shall provide a list of all city, county, or state related contracts which he/she is currently obligated to fulfill during the initial term of this agreement;

f. Organization Chart: PROPOSER shall provide a chart clearly showing the management team, office staff, sales, maintenance, supervisors, number of collection employees etc.
**Operational Plan – Proposal Form 10**

PROPOSER shall submit the following:

- a. List the number, type and capacity for each collection vehicle to serve residential curbside garbage customers and include the number of homes serviced for each route.
- b. List the number, type and capacity for each collection vehicle to serve residential curbside yard waste customers and number of homes serviced for each route.
- c. List the number, type and capacity for each collection vehicle to serve residential curbside recovered material customers and number of homes serviced for each route.
- d. Provide a map clearly showing each curbside garbage, yard waste and recovered material collection route. This map must include the service day and include the starting and ending point for each route.
- e. List the number, type and capacity for each collection vehicle to serve residential containerized solid waste customers.
- f. List the number, type and capacity for each collection vehicle to serve residential containerized recovered material customers.
- g. Explain the vehicle to be used to remove bulk items once a week for residential containerized customers.
- h. List the number, type and capacity for each collection vehicle providing commercial garbage collection service and include the number of cubic yards removed each week per vehicle.
- i. List the number, type and capacity for each collection vehicle providing commercial recovered material collection service.
- j. List the number and type of roll-off collection vehicle to be used to service permanent open-top and compactor roll-off customers.
- k. Please provide the name(s) of the company (companies) from which you plan to purchase the required frontload residential and commercial containers, including roll-off containers and compactors.
- l. Please explain the plan to obtain, or the location of, a Palm Beach County located office and the location of your vehicle and maintenance yard.
- m. Please explain your plan for a seamless transition for our customers.

2.6 **Financial Capability**

PROPOSER must demonstrate financial stability sufficient for the Evaluation Committee to conclude that the PROPOSER has the financial ability to service the Service Area for the term of the Franchise Agreement. The PROPOSER must provide a statement of PROPOSER’S financial stability, including information on current or prior bankruptcy proceedings. PROPOSER must include a copy of the most recent annual financial report/annual audit/10K and the most recent 10Q, if applicable. Financial reports provided must include, at a minimum, the last three (3) years’ balance sheets, income statements and statements of cash flow for the PROPOSER’S Entity. PROPOSERS that have less than three (3) years’ experience must provide applicable statements (preferably certified by an Accountant) for each year of operation. PROPOSER must provide a financial projection covering the first three (3) years of the contract.
In order to be compliant with this section, PROPOSERS must provide the following:

a. A statement of financial stability including information as to current or prior bankruptcy proceedings and information on available Lines of Credit including current and historical outstanding balances.

b. A copy of the most recent annual financial report/annual audit/10K and the most recent 10Q, if applicable.

c. The last three (3) years of financial reports, including at a minimum, balance sheets, income statements, and statements of cash flow, certified by an Accountant, if applicable,

d. Letters of reference from lenders, financial institutions, and vendors that attest to the credit-worthiness of your company and/or their willingness to do business with your company. PROPOSERS must provide letters of commitment from equipment suppliers to sell to proposer all trucks and containers required to perform the services or otherwise demonstrate the PROPOSER’S ability to obtain the necessary equipment.

2.7 Bonding Company Commitment

PROPOSER must provide an irrevocable letter of commitment from a State of Florida licensed bonding company to provide a Performance Bond for services as Proposal. The bonding company shall be rated as stipulated in Exhibit D of the Franchise Agreement included with this Request for Proposal. The irrevocable letter of commitment must specifically accept the Performance Bond language stipulated by the AUTHORITY in this Request for Proposal. In addition, it must accept the dollar amount of the Performance Bond as stipulated in the Franchise Agreement, Exhibit D. However, for the purpose of this Request for Proposal only, the dollar amount of the performance bond for Service Area 6 is provided below.

Performance Bond Requirements:

| Service Area 6 | $800,000 |

The actual amount of the Performance Bond that will be required upon execution of the Franchise Agreement(s) may be higher or lower depending on the awarded amounts and in accordance with Exhibit D of the Franchise Agreement.

2.8 Small/Minority/Women Business Enterprise (S/M/WBE) Participation

A. The Governing Board of the AUTHORITY has implemented the Economic Inclusion Policy administered by the Equal Business Opportunity (EBO) Program Office to ensure that all segments of its business population, including, but not limited to small, local, minority, and women-owned businesses, have an equitable opportunity to participate in the AUTHORITY’S procurement process. Refer to Section 6 of the Purchasing Manual, is incorporated herein. Small Business Enterprise (SBE) and Minority/Women Business Enterprise (M/WBE) is hereby mentioned as (“S/M/WBE”) in the RFP.

B. In accordance with Section 6 of the Purchasing Manual, is incorporated herein, the purpose for the placement of a contract into the Competitive Business Development (CBD) Demonstration Project is to encourage development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the AUTHORITY, and to address the ongoing effects of marketplace discrimination that has posed barriers to the formation and successful diversification of M/WBE firms into those industry segments.

C. Failure to meet the API requirement will deem the PROPOSER’s response as non-responsive.
2.8.1 Affirmative Procurement Initiatives (APIs) for Commodities, Other Services & Trade Services Industries

A. Competitive Business Development (CBD) Demonstration Project

1. A CBD API Preference is established for this procurement. Evaluation preference points shall be awarded on a sliding scale up to 15 Points of the total 100 available evaluation points for scoring of proposals to those firms bidding on Other Services and Trade Services contracts.

2. The AUTHORITY shall award a maximum of fifteen (15) Points for S/M/WBE Participation as listed in the Evaluation Tables below:

   a) Five (5) points shall be awarded to eligible firms proposing as a Prime in the following business structure:

   The PROPOSER shall be a Certified-M/WBE or Joint Venture (JV) with a Certified-M/WBE JV Partner. The Certified-M/WBE or JV with a Certified-M/WBE Partner shall be certified at the time that proposals are due to the AUTHORITY in accordance with the Equal Business Opportunity Program Policy as defined in the Purchasing Manual, is incorporated herein. All certified firms shall perform a “Commercial Useful Function” on the contract. See Definitions in the Purchasing Manual, is incorporated herein.

<p>| Evaluation Criteria Point (5 Points) Award to Submitting Prime Firms |</p>
<table>
<thead>
<tr>
<th>Prime Certified-M/WBE or JV Partnering with a Certified-M/WBE Participation</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>51% or More</td>
<td>5</td>
</tr>
<tr>
<td>30% &lt; 51%</td>
<td>4</td>
</tr>
<tr>
<td>10% &lt; 30%</td>
<td>3</td>
</tr>
<tr>
<td>5% &lt; 10%</td>
<td>1</td>
</tr>
</tbody>
</table>

   b) The AUTHORITY has set a 20% subcontracting goal for S/M/WBE participation in this procurement as follows:

   Ten (10) points shall be awarded to eligible firms meeting the minimum S/M/WBE Subcontractor Participation. The award of points are based on a Pass/Fail:

<p>| Evaluation Criteria Point (5 points) Award for Small Business Enterprise (SBE) Subcontractor Participation |</p>
<table>
<thead>
<tr>
<th>Percentage of SBE Subcontractor Participation</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>5</td>
</tr>
</tbody>
</table>

<p>| Evaluation Criteria Point (5 points) Award for Minority/Women Business Enterprise (M/WBE) Subcontractor Participation |</p>
<table>
<thead>
<tr>
<th>Percentage of M/WBE Subcontractor Participation</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>5</td>
</tr>
</tbody>
</table>
2.8.2 A Minority/Women Business Enterprise (M/WBE) is a firm that is certified as either a minority business enterprise or as a women business enterprise for purposes of the Economic Inclusion Policy and EBO Program as being at least fifty-one percent (51%) owned, managed, and controlled by minority group members and/or women of legal majority age that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing, and able to sell goods or services that are purchased by the SWA, and that meets the Significant Business Presence requirements.

2.8.3 To qualify as meeting the Significant Business Presence definition, the S/M/WBE firm’s principal office as stated in its filings with the Florida Department of State must be located within Palm Beach County, or the firm must have a significant business presence as of the time the bid is due within Palm Beach County, defined as: an established place of business in Palm Beach County, from which at least 50% of its total full-time, part-time and contract employees are domiciled and regularly based in Palm Beach County, and from which a substantial role in the S/M/WBE’s performance of a Commercially Useful Function on the AUTHORITY contract is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

Commercially useful purpose: Shall constitute any work that is required to complete or achieve the contract goals and includes by way of example, but not limited to, the following:

- Solid Waste and Recycling Collection Services
- Clamtruck Hauling Services
- Yard Waste Disposal Services
- Container Delivery, Repair and Maintenance
- Roll-Off Services
- Towing Services
- Fuel Supply
- Automotive/Vehicle Supplies, Repair and Maintenance
- Equipment Supply and Maintenance
- Health and Safety Equipment and Supplies

The examples are intended to be illustrative and not exhaustive. Upon application to the AUTHORITY by the PROPOSER, this list may be expanded and such additional items of work may apply toward meeting the S/M/WBE goal.

2.8.4 A Small Business Enterprise (SBE) is a corporation, partnership, sole proprietorship, or other legal entity for the purpose of making a profit that: (1) is independently owned and operated by individuals legally residing in, or that are citizens of, the United States or its territories; and (2) is currently certified as having annual revenues and / or number of employees that satisfy S/M/WBE size standards on an industry-specific basis and satisfies the Significant Business Presence and other eligibility requirements for participation in the EBO Program.

2.8.5 Subcontractor/Supplier Utilization Plan

A. The PROPOSER shall identify all certified SBE and M/WBE firms (including non-certified subcontractors/suppliers) which will be utilized as Subcontractors in this Procurement. The PROPOSER must provide proof that each firm to be utilized as a prime or subcontractor is certified in accordance to the Equal Business Opportunity Program Policy. Each SBE or M/WBE subcontractor and prime shall be listed in the Subcontractor/Supplier Utilization Plan (as defined below) and shall be submitted with the proposal. The listing of S/M/WBEs in the Subcontractor Utilization Plan attached with each proposal shall constitute the PROPOSER’S
representation to the AUTHORITY that the certified firms are technically and financially qualified and available to perform the assigned work. Failure to provide complete and accurate information in the AUTHORITY’S discretion shall result in the proposal being deemed non-responsive.

B. The Subcontractor/Supplier Utilization Plan shall consist of the following documentation, which must be attached to the proposal:

1. Proposal Form 5, S/M/WBE Subcontractor/Supplier Participation Schedule
2. Proposal Form 6, Statement of Intent to Perform as a S/M/WBE Subcontractor/Supplier Form for each SBE or M/WBE firm
3. Copy of certification letter or certificate as proof of firm’s current status

NOTE: For an M/WBE Prime or M/WBE JV Partner, self-performed work will contribute toward participation the same as work subcontracted to an M/WBE Subcontractor firm. Also, an Awarded PROPOSER and all subcontractors/suppliers shall register as a vendor with the AUTHORITY prior to notice to proceed.

C. If percentages vary between Proposal Form 5 and Proposal Form 6, the percentages on Proposal Form 6 will be used to determine participation. If Proposal Form 6 is not signed by the subcontractor, participation attributed to the listed vendor will not be included even if they are listed on Proposal Form 5. If no percentage is listed, submitting PROPOSER will not receive points. If a percentage range is provided for a particular subcontractor on the Statement of Intent to Perform as an S/M/WBE Subcontractor/Supplier, the higher determined percentage in the range will be used to calculate participation and therefore, effectively, represents the prime’s commitment to the contract goal.

D. Any participation by firms identified as certified that are determined not certified in accordance with the Equal Business Opportunity Program Policy at the time of proposal submission will not count towards goal attainment. PROPOSERS are strongly encouraged to contact the AUTHORITY’S Equal Business Opportunity Program Office at 561-640-4000 well in advance of the date set for receipt of proposals to allow sufficient time for review and determination of eligibility and business enterprise certification.

E. Contractor and each of its Subcontractors for this project shall register and/or maintain active status in the AUTHORITY’S Vendor Registration System.

F. The AUTHORITY will not execute an agreement for this project until the Contractor has executed an agreement with each of its S/M/WBE Subcontractors or suppliers with a contract term coterminous with the Agreement at a minimum.

2.9 Local Preference Qualification and Application – (Proposal Form 8)

In order to qualify to receive 10 points in the evaluation for Local Preference, a PROPOSER must have had its office located within Palm Beach County for a minimum of one (1) year prior to the issuance of this RFP. PROPOSER must have been incorporated or legally begun business, being fully licensed, at least one (1) year prior to the issuance of this RFP. A valid Business Tax Receipt issued by the Palm Beach County Tax Collector is required and will be used to verify that the PROPOSER had a permanent place of business one (1) year prior to the issuance of this RFP. In addition, the name and address on the Business Tax Receipt must be the same name and address that is included in the submittal to the AUTHORITY, and that the attached Business Tax Receipt must accompany the RFP at the time of submission. Copies of licensure, lease of office space (or proof of ownership of office site) may be required by AUTHORITY staff as proof of compliance. The PROPOSER’S office must be of a permanent
nature not temporary or transient (i.e., mobile homes shall be without wheels and permanent affixed to the land). The PROPOSER’S office shall be fully staffed with personnel including at least one of those assigned to the AUTHORITY’S projects, office furniture, office equipment, and, if applicable, professional equipment/computers as required by the type of work to be performed. A site visit by AUTHORITY staff may be required to confirm local presence. PROPOSER will be required to maintain said office, or other AUTHORITY approved offices, for the entire term of the contract. Failure to submit this information will cause the firm not to be qualified under this section to qualify for Local Preference. The AUTHORITY may require a PROPOSER to provide additional information for clarification purposes at any time prior to the award of the contract.

2.10 Other

a. Provide evidence of current levels of insurance in areas of General Liability, Automobile Liability, Workers’ Compensation, and Professional Liability.

b. If PROPOSER is a corporation, provide certification from the Florida Secretary of State verifying PROPOSER’S corporate status and good standing, and in the case of out-of-state corporations, evidence of authority to do business in the State of Florida. Additionally, indicate the Parent Organization(s) of the PROPOSER.

c. Additional Data - Any additional information, which the PROPOSER considers pertinent for consideration.

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PART IV
PROPOSAL EVALUATION AND AWARD

1. GENERAL

All Proposals submitted in response to this RFP will be evaluated by the AUTHORITY’S Evaluation Committee based on the information supplied per Part III – Proposal Submission Requirements and utilizing criteria specified in Part IV – Proposal Evaluation and Award.

2. EVALUATION CRITERIA

The review and analysis of the Proposals by the Evaluation Committee will be based on the following criteria:

- Submission of a complete package including all Forms
- Financial Capability (pass/fail)
- Minimum Requirements
- Management Experience and Operational Plan
- Price Proposal
- S/M/WBE Participation (Note: Points for this Category shall be provided by the Equal Business Opportunity Office for use by the Evaluation Committee)
- Local Preference

3. EVALUATION METHOD

A. Evaluation Committee members will conduct a completeness review of the Proposals. Proposals must include all requirements specified in Part III – Proposal Submission Requirements. Minor informalities may be waived by the AUTHORITY. Those Proposals found to be complete, will then be ranked by individual members. At its discretion the AUTHORITY may require any PROPOSER(S) to make an oral presentation of his/her submittal. An oral presentation provides an opportunity for the PROPOSER(S) to clarify his/her submittal for the AUTHORITY. The AUTHORITY, if deemed necessary, will notify the PROPOSER(S) and schedule an oral presentation following which the evaluation committee will re-evaluate the scores.

B. Table 2 – Evaluation Criteria and Points provide guidelines for the Evaluation Committee members for the ranking of Proposals. In each category where points are to be assigned, PROPOSER(S) may receive up to the maximum allowable number of points from an individual Evaluation Committee member. Total points of each Evaluation Committee member for each Proposal will be tallied and averaged. Proposal with highest total average score will be ranked first.

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TABLE 2 - EVALUATION CRITERIA AND POINTS

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<thead>
<tr>
<th>EVALUATION CRITERIA</th>
<th>POINTS</th>
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<tr>
<td>Financial Capability - (Pass/Fail)</td>
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<tr>
<td>Management Experience</td>
<td>25</td>
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<tr>
<td>Operational Plan</td>
<td>25</td>
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<td>Price Proposal</td>
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<tr>
<td>Small/Minority/Women Business Enterprise Plan</td>
<td>15</td>
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<tr>
<td>Local Preference</td>
<td>10</td>
</tr>
<tr>
<td><strong>TOTAL:</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

4. AWARD

A. The AUTHORITY anticipates award to the PROPOSER who submits the Proposal judged by the AUTHORITY to be the most advantageous to the AUTHORITY.

B. The AUTHORITY intends to enter into the Agreement negotiations with the highest ranked PROPOSER. If the AUTHORITY and the highest ranked PROPOSER cannot negotiate a successful Agreement, the AUTHORITY may terminate such negotiations and begin negotiations with the next highest ranked PROPOSER. No PROPOSER shall have any rights against the AUTHORITY arising from such pre-agreement negotiations.

C. The price structure submitted in the Proposals shall be firm. However, the AUTHORITY reserves the right to negotiate a "best and final" price with the highest ranked PROPOSER.

D. The Agreement will be for a term of seven (7) years.

E. The PROPOSER understands that this RFP does not constitute an agreement or a contract with the PROPOSER. An official agreement or contract is not binding until Proposals are reviewed and accepted by appointed staff, approved by the appropriate level of authority within the AUTHORITY, and executed by the parties. A Sample Agreement is attached to this RFP. The AUTHORITY anticipates that the final agreement will be in substantial conformance with the Sample Agreement; nevertheless, PROPOSERS are advised that any agreement, which may result from this RFP, may deviate from the Sample Agreement.

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The following Proposal Forms are included:

Proposal Form 1 – Transmittal Letter
Proposal Form 2 – Price Proposal
Proposal Form 3 – Non-Collusion Affidavit
Proposal Form 4 – Drug-Free Workplace
Proposal Form 5 – S/M/WBE Subcontractor/Supplier Participation Schedule
Proposal Form 6 – Statement of Intent to Perform as a S/M/WBE Subcontractor/Supplier
Proposal Form 7 – Subcontracting Goal – Waiver Request
Proposal Form 8 – Certification of Business Location
Proposal Form 9 – Qualification Statement
Proposal Form 10 – Operational Plan

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
Dear Mrs. Saundra L. Brady, MPA, CPPB
Director, Purchasing Services
Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, FL 33412

As a duly authorized representative of the PROPOSER, I hereby certify, represent and warrant, on behalf of the PROPOSER team, as follows in connection with the Proposal:

1. The PROPOSER acknowledges receipt of the RFP and the following Addenda:

   No. | Date
   --- | ---
   [Addenda List]

2. The submittal of the Proposal has been duly authorized by, and in all respects is binding upon, the PROPOSER.

3. All information and statements contained in the Proposal are current, correct and complete, and are made with full knowledge that the AUTHORITY will rely on such information and statements in qualifying PROPOSER.

4. The PROPOSER certifies under penalties of perjury that the RFP has been prepared and is submitted in good faith without collusion, fraud or any other action with any other person taken in restraint of free and open competition for the services contemplated by the RFP. As used in this Proposal Form, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

5. The PROPOSER is not currently suspended or debarred from doing business with any governmental entity.

6. The PROPOSER has reviewed all of the engagements and pending engagements of the PROPOSER, and no potential exists for any conflict of interest or unfair advantage.

7. No person or selling agency has been employed or retained to solicit the award of the Agreement under an arrangement for a commission, percentage, brokerage or contingency fee or on any other success fee basis, except bona fide employees of the PROPOSER.
8. The principal contact person who will serve as the interface between the AUTHORITY and the PROPOSER for all communications is:

Name: 
Title: 
Mailing Address: 
Phone: 
Fax: 
E-mail: 

The PROPOSER has carefully examined all documents constituting the RFP and the addenda thereto and, being familiar with the work and the conditions affecting the work contemplated by the RFP and such addenda, offers to furnish all labor, materials, supplies, equipment, facilities and services which are necessary, proper or incidental to carry out such work as required by and in strict accordance with this RFP and the Proposal.

Name of PROPOSER

Print Name of Designated Signatory

Signature

Title

State of ______________________________

County of ______________________________

On this _________ day of _____________, 20___, before me appeared ______________________________ personally known to me to be the person described in and who executed this ______________________________ and acknowledged that (she/he) signed the same freely and voluntarily for the uses and purposes therein described.

In witness thereof, I have hereunto set my hand and affixed my official seal the day and year last written above.

Signature

Notary Public in and for the State of ______________________________

(Affix Seal here)

(Name printed)

Residing at ______________________________

My commission expires ______________________________
THE UNDERSIGNED PROPOSER, having familiarized itself with the specifications in the Invitation to Propose, and all laws, regulations and other factors affecting performance of the work, and having satisfied itself of the expense and difficulties attended in the performance of a contract, HEREBY PROPOSES AND AGREES, if this Proposal No. 19-203/SLB, Solid Waste and Recycling Collection Services is accepted, to enter into a contract to perform under all terms and conditions as stated herein for the following price:

### SERVICE AREA 6

<table>
<thead>
<tr>
<th>Residential</th>
<th>Unit Cost Per Month</th>
<th>Unit</th>
<th>Estimated No. Units ***</th>
<th>Extension (numbers)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Solid Waste Curbside Two (2) times per week*</td>
<td>DOLLARS ($ )</td>
<td>DWELLING</td>
<td>13,477</td>
<td>$</td>
</tr>
<tr>
<td>b. Solid Waste Containerized two (2) times per week**</td>
<td>DOLLARS ($ )</td>
<td>DWELLING</td>
<td>5,721</td>
<td>$</td>
</tr>
<tr>
<td>c. Vegetative Curbside one (1) time per week</td>
<td>DOLLARS ($ )</td>
<td>DWELLING</td>
<td>13,477</td>
<td>$</td>
</tr>
<tr>
<td>d. Recycling Curbside one (1) time per week</td>
<td>DOLLARS ($ )</td>
<td>DWELLING</td>
<td>13,477</td>
<td>$</td>
</tr>
<tr>
<td>e. Recycling Containerized annual average of one and one half (1-1/2) times per week</td>
<td>DOLLARS ($ )</td>
<td>DWELLING</td>
<td>5,721</td>
<td>$</td>
</tr>
</tbody>
</table>

** Residential Cart Maintenance monthly fee of $2.10 per curbside unit collected by the AUTHORITY and paid to the Contractor

** The norm for residential solid waste containerized collection service is two (2) times per week; however frequency of service may be varied as specified in Section 4.B of the Franchise Agreement.

### Residual Total Monthly Cost

Multiply by Twelve (12)

### Total Annual Residential Proposal

### Total Annual Commercial Proposal (see detail page 2 of 3)

$496,971.49

### Total Annual Residential and Commercial Proposal

$
SOLID WASTE AND RECYCLING COLLECTION SERVICES

SERVICE AREA 6

ANNUAL COMMERCIAL SOLID WASTE COLLECTION

FRONTLOAD SOLID WASTE SERVICE (111,679 annual cubic yards)
Multiplied by $3.55 per cubic yard set collection rate .................................................. $ 396,460.45

ROLL-OFF COMPACTOR (388 annual pulls)
Multiplied by $210.00 per pull set rate ........................................................................ $ 81,480.00

VIP (416 annual cubic yards)
Multiplied by $4.44 per cubic yard set collection rate .................................................. $ 1,847.04

PERMANENT ROLL-OFF CONTAINER SERVICE (96 annual pulls)
Multiplied by $175.00 per pull set rate ........................................................................ $ 16,800.00

SMALL COMMERCIAL GENERATORS (1)
Multiplied by monthly set collection rate of $32.00 times 12 months ......................... $ 384.00

SERVICE AREA 6
TOTAL ESTIMATED ANNUAL COMMERCIAL SOLID WASTE COLLECTION PROPOSAL ......................................................... $ 496,971.49
SOLID WASTE AND RECYCLING COLLECTION SERVICES

ANNUAL COMMERCIAL CUSTOMER ESTIMATED REVENUE

The AUTHORITY has in its possession commercial customer lists from the current franchise haulers that have been used to establish the estimated commercial revenue printed on the Proposal Form 2. This information includes the following:

- Customer name, address, telephone number, contact information, container size and frequency of collection for front load solid waste, roll-off compactor, VIP, permanent roll-off and small commercial generator service.

- Commercial recovered materials service, which is not exclusive to this franchise. The estimated commercial revenue included on the Proposal Form 2 does not include commercial recovered material revenue.

Additionally, the AUTHORITY has in its possession customer lists for residential containerized service.

This detailed information will be made available at the Pre-Proposal Meeting to those PROPOSERS that desire it. PROPOSERS are advised that this information was obtained by the AUTHORITY from the current haulers and is unaudited. This information is public information and is being provided as a courtesy only, and the AUTHORITY makes no claims of accuracy.

The AUTHORITY makes no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the data provided, and PROPOSERS should not rely on the data provided herein for any reason. The AUTHORITY explicitly disclaims any representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. The AUTHORITY shall assume no liability for: 1) Any errors, omissions, or inaccuracies in the information provided regardless of how caused; or 2) Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.
PROPOSAL FORM 3 – NON-COLLUSION AFFIDAVIT

State of ________________________________

County of ________________________________

Being duly sworn deposes and says:

That she/he is an officer of the parties making the foregoing Proposal, that such Proposal is genuine and not collusive or sham; that said PROPOSER has not colluded, conspired, connived or agreed, directly or indirectly with any PROPOSER or person, to put in a sham bid or to refrain from bidding and has not in any manner, directly, or indirectly, sought by agreement or collusion or communication or conference with any person, to fix the price or affiant or any other PROPOSER, or to fix any overhead, profit or cost element of said price, or that of any other PROPOSER, or to secure any advantage against the AUTHORITY, or any person interested in the proposed contract and that all statements in said Proposal are true.

________________________________________
Name of PROPOSER

________________________________________
Print Name of Designated Signatory

________________________________________
Signature

________________________________________
Title

On this ____________ day of ______________ , 20___, before me appeared ________________________________ personally known to me to be the person described in and who executed this ________________________________ and acknowledged that (she/he) signed the same freely and voluntarily for the uses and purposes therein described.

In witness thereof, I have hereunto set my hand and affixed my official seal the day and year last written above.

________________________________________
Signature

Notary Public in and for the State of ________________________________

(Affix Seal here)

________________________________________
(Name printed)

Residing at ________________________________

My commission expires ________________________________
PROPOSAL FORM 4 – DRUG-FREE WORKPLACE

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that

____________________________________
(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3. Give each employee engaged in providing the commodities or contractual services that are under bid, a copy of the statement specified in subsection (1).

4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United State or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee who is so convicted.

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

____________________________________
Print Name of Designated Signatory

____________________________________
Signature

____________________________________
Date
**PROPOSAL FORM 5 – SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE SUBCONTRACTOR/SUPPLIER PARTICIPATION SCHEDULE**

**SOLICITATION INFORMATION**

<table>
<thead>
<tr>
<th>Contract #:</th>
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</thead>
<tbody>
<tr>
<td>Project Name:</td>
<td>Project Start Date:</td>
</tr>
<tr>
<td>Project Location:</td>
<td></td>
</tr>
<tr>
<td>Bidder/Proposer:</td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Email Address:</td>
</tr>
</tbody>
</table>

**ORGANIZATION STATUS**

<table>
<thead>
<tr>
<th>Business Association</th>
<th>Business Name</th>
<th>Type of Work to be Performed</th>
<th>NIGP Code</th>
<th>Certification Type</th>
<th>% of Work</th>
<th>$ Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Bidder/Proposer</td>
<td></td>
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</tr>
<tr>
<td>S/M/WBE Subcontractor</td>
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<tr>
<td>S/M/WBE Subcontractor</td>
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</tbody>
</table>

**TOTAL PARTICIPATION % & DOLLAR AMOUNT:** 100%  

**TOTAL CONTRACT AMOUNT:** $  

**BIDDER/PROPOSER SIGNATURE**

The listing of S/M/WBE(s) shall constitute a representation by the bidder/proposer to the Authority that the bidder/proposer believes such S/M/WBE(s) to be technically and financially qualified and available to perform the work described. Bidders/Proposers are advised that the information contained herein may be verified. I certify that all information contained in this form is true and accurate to the best of my knowledge and will be relied upon when evaluating this solicitation.

Bidder/Proposer Signature

Name & Title (Print)

Date

**DATE**
PROPOSAL FORM 5 – SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE SUBCONTRACTOR/SUPPLIER
PARTICIPATION SCHEDULE

Use to list additional subcontractors

<table>
<thead>
<tr>
<th>Business Association</th>
<th>Business Name</th>
<th>Type of Work to be Performed</th>
<th>NIGP Code</th>
<th>Certification Type</th>
<th>% of Work</th>
<th>$ Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non S/M/WBE Subcontractor</td>
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<tr>
<td>Non S/M/WBE Subcontractor</td>
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<tr>
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<tr>
<td>Non S/M/WBE Subcontractor</td>
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</tr>
</tbody>
</table>

TOTAL PARTICIPATION % & DOLLAR AMOUNT: 100% $

TOTAL CONTRACT AMOUNT: $
A signed Statement of Intent to Perform as a Small/Minority/Women Business Enterprise (S/M/WBE) Subcontractor form must be completed by the Bidder and owner or authorized principal of each S/M/WBE firm listed in the S/M/WBE Subcontractor Participation Schedule.

**STATEMENT OF INTENT**

The undersigned is certified as an S/M/WBE vendor in accordance with the Solid Waste Authority of Palm Beach County’s Equal Business Opportunity Program Policy:  

- [ ] Yes  
- [x] No

(Name of S/M/WBE Subcontractor/Supplier) agrees to perform work on the above contract as a (check one):

- [ ] Individual  
- [ ] Partnership  
- [ ] Corporation  
- [ ] Other

The S/M/WBE subcontractor will enter into a formal agreement with (Name of Bidder/Proposer) conditioned upon the Bidder/Proposer executing a contract with the Authority.

**DESCRIPTION OF WORK TO BE PERFORMED & VALUE**

Please provide the details and value of the work to be performed:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Type of Work</th>
<th>Agreed Upon Price</th>
<th>% of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>$</td>
<td>%</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>$</td>
<td>%</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>$</td>
<td>%</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>$</td>
<td>%</td>
</tr>
</tbody>
</table>

**TOTAL VALUE OF WORK**  

- $  
- %

**S/M/WBE SUBCONTRACTOR/SUPPLIER SIGNATURE**

I certify that all information contained in this form is true and accurate to the best of my knowledge and will be relied upon when evaluating this solicitation.

<table>
<thead>
<tr>
<th>S/M/WBE Subcontractor (Signature)</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of S/M/WBE Subcontractor (Print)</td>
<td>Date</td>
</tr>
<tr>
<td>Prime Contractor (Signature)</td>
<td>Title</td>
</tr>
<tr>
<td>Name of Prime Contractor (Print)</td>
<td>Date</td>
</tr>
</tbody>
</table>
**CONTACT INFORMATION**

<table>
<thead>
<tr>
<th>Solicitation Title:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Solicitation #:</td>
<td></td>
</tr>
<tr>
<td>Prime Contractor:</td>
<td></td>
</tr>
<tr>
<td>Contact Person:</td>
<td></td>
</tr>
<tr>
<td>Phone No:</td>
<td>Email:</td>
</tr>
</tbody>
</table>

**GOOD FAITH EFFORT DOCUMENTATION**

In the sections below, points will ONLY be awarded for fully satisfying the criteria. For more information on the Subcontracting Waiver Criteria or for assistance on completing the Subcontracting Waiver Request Form, please contact the EBO Office at (561) 640-4000. **Respondents must obtain a total of 70 points to receive a waiver approval.**

**SECTION A – Sufficient Commercially Useful Work Identified to Meet Subcontracting Goal**

25 points

Please provide documentation and supporting evidence to show how the criteria was fulfilled:

1. List the specific scope of work identified for each of the S/M/WBEs contacted  
2. Ensure the scope of work identified for S/M/WBEs is greater than or equal to the subcontracting goal(s)  
3. Additional comments, if any

**Response:**

**Requirements:**

1. Provide a list of elements of the scope of work, specifically referencing appropriate NIGP codes, and estimated percentages of subcontracting opportunities and estimated percentage of work to be self-performed by Respondent. Respondent must solicit a reasonable number of available S/WBE subcontractor that are capable of performing each type of work that Respondent is seeking to subcontract. No points will be awarded for this category if the respondent fails to list sufficient commercially useful subcontracting opportunities to meet the established goal.
SECTION B – Initial Communications to Potential S/M/WBE Subcontractors Using Vendor Registration System (VRS) / Website or Other Certifying Entity's S/M/WBE Directories

Please provide written documentation and supporting evidence to show how the criteria was fulfilled. Respondents will ONLY RECEIVE POINTS for this Section if ALL REQUIRED DOCUMENTATION listed above is included with the Subcontracting Waiver Request and if outreach occurred within the specified timeframe.

1. Contact at least three (3) S/M/WBEs, where available for each scope of work identified to be subcontracted in Section A (email/call logs/faxes)
2. Include current documentation of searches from Vendor Registration System (VRS) / Website or Other Certifying Entity's S/M/WBE Directories
3. Notify S/M/WBEs at least ten (10) calendar days prior to the bid closing date
4. Additional comments, if any

Response:

Requirements:

1. Each subcontractor solicitation must be documented to have been sent by Respondent no later than 10 calendar days prior to the Authority’s bid due date, and to have been sent to the email address or fax number and contact person for the S/M/WBE firm that has been registered with the Authority or Certifying Entity in accordance with the Economic Inclusion Policy.

2. Each initial communication to potential S/M/WBE subcontractors by Respondent must contain in the subject line a reference to “subcontractor solicitation” as well as the name of the project and bid solicitation number as provided in the Authority’s bid solicitation.
   - The body of each initial communication to S/M/WBE subcontractors from Respondent must contain a current web link to the Respondent’s own web page wherein its solicitation for subcontractors for various scopes of work for that specific prime contract are posted.

3. Respondent’s web posting must provide detailed instructions to prospective subcontractors as to the appropriate format and means for submitting a subcontract bid, as well as all information that is required for submitting a bid to the Respondent, including, but not limited to, Respondent’s contact information for subcontracting bid submittals, bid specifications for each element of subcontracted work, the bid due date for subcontractors, bonding and insurance requirements for subcontractors, and reference requirements.

4. For each category of work identified by Respondent as being available for subcontracting, copies of emails or fax correspondence to no fewer than 3 certified S/M/WBEs, where available as being able to perform that category of commercially useful work.
5. Copies of email and/or fax records reflecting that each such subcontractor solicitation sent by Respondent was sent **no later than 10 calendar days** prior to the bid due date as established by the Authority, and that each such solicitation was sent to the fax number and/or email address and contact person for the S/M/WBE firm that has been registered with the Authority or Certifying Entity in accordance with the Economic Inclusion Policy as being capable of performing each such category of work.

6. Documents reflecting that the web link to the Bidder’s web page contained in the initial communication was current and valid as of the date the communication was sent to prospective S/M/WBE subcontractors. (Printed web pages reflecting required information, the web page address and the date of printing may suffice.)

---

### SECTION C – Follow-up Communications & Bid Negotiations with Potential Subcontractors

<table>
<thead>
<tr>
<th>35 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please provide written documentation and supporting evidence to show how the criteria was fulfilled. Respondents will <strong>ONLY RECEIVE POINTS</strong> for this Section if <strong>ALL REQUIRED DOCUMENTATION</strong> listed above is included with the Subcontracting Waiver Request and if outreach occurred within the specified timeframe.</td>
</tr>
</tbody>
</table>

1. Follow up with S/M/WBEs at least three (3) calendar days prior to the bid closing date. **Note that an alternate form of communication is required from the communication methods used in Section B**

2. Document if a response was received from S/M/WBEs contacted. If a S/M/WBE submitted a bid, indicate negotiations and reasoning for not accepting the bid

3. Additional comments, if any

**Response:**

---

### Requirements:

1. Communication log/spreadsheet documenting telephone/fax/email follow-up. This log/spreadsheet must include the Authority’s eligible subcontractor’s/supplier’s company name, telephone number, email address, fax number, contact person, time, date, and result of the follow-up communication.

2. Respondent must follow-up with all solicited potential subcontractors/suppliers who have not responded to initial notification or must state reasonable basis for lack of follow-up action.

3. If Respondent does not receive feedback from initial communication or received notification that initial outreach was not successfully received (wrong or disconnected phone/fax, email delivery failure), Respondent must show alternative methods of communication utilized for outreach.

4. Copies of all emails, faxes, subcontractor bid offers, Respondent’s written responses to subcontractor bid offers, and other written communications exchanged between Respondent and prospective subcontractors during the bidding process must be provided.
**SECTION D - Attendance at Pre-Submittal Conference**

Solid Waste Authority of PBC Purchasing staff maintains documentation regarding attendance at the pre-submittal conference

5 Points

Please provide written documentation and supporting evidence to show how the criteria was fulfilled. Respondents will **ONLY RECEIVE POINTS** for this Section if **ALL REQUIRED DOCUMENTATION** listed above is included with the Subcontracting Waiver request and if outreach occurred within the specified timeframe.

1. Below, list the individuals from your firm that attended the pre-submittal conference

Response:

Requirements: Potential subcontractors/suppliers are encouraged to attend pre-submission meetings, which serve as an opportunity to meet prime Respondents. Respondents demonstrate attendance at pre-submittal conference by signing-in physically. No documentation other than list of company representatives in attendance are required by Respondent; the Authority staff will maintain internal documentation.

---

**SECTION E – Other Criteria (Bonding / Insurance / Supplier Credit Assistance)**

15 Points

Please provide documentation and supporting evidence to show how the criteria was fulfilled. To receive all 15 points, three (3) additional good faith efforts must be completed. Note the items below are recommendations of “Other Criteria.” The Respondent may identify other good faith efforts in the area provided below (subject to approval):

1. Participate in a mentoring program in the Palm Beach, Broward or Miami-Dade Counties
2. Provide S/M/WBEs easy access to plans and specifications for S/M/WBEs
3. Host outreach events for S/M/WBEs in Palm Beach County in partnership with the Authority
4. Offer joint check services, bonding assistance or lines of credit to S/M/WBEs
5. Advertise and utilize member listings from multiple trade organizations and Chambers of Commerce
6. Other (Please list)

Response:
Requirements:

1. Respondent provided subcontractors with detailed information on how, where (within Palm Beach County area) and when (during normal business hours) interested subcontractors may view or obtain the plans and specification for the project free of charge (on-site or via internet).
2. Respondent advertised for bids/quotes from interested S/M/WBE businesses not less than 10 business days prior to the Authority solicitation response deadline in one or more newspapers, trade association publications, minority- or trade oriented publications, newsletters, or trade websites.
3. Outreach to other organizations’ Vendor Directories/Listings to contact certified S/M/WBEs who have been identified to perform Commercially Useful Functions for subcontracting work identified in the solicitation.
4. Assistance provided or offered to potential subcontractors/suppliers in obtaining bonding, lines of credit with suppliers or financial institutions, and insurance in connection with the bid solicitation.
5. Participating as a mentor in business mentoring programs in South Florida within the past calendar year.
6. Attending/hosting Palm Beach County business outreach events with the past calendar year.

Respondents must obtain a total of 70 or more points to receive a waiver approval. No partial points will be awarded to Respondents in Sections A-D for not meeting the criteria. Respondents will be considered non-responsive upon denial of the Subcontracting Goal – Waiver Request Form and Subcontractor/Supplier Utilization Plan. For more information on the Subcontracting Waiver Criteria or for assistance on completing the Subcontracting Waiver Request Form, please contact the EBO Office at (561) 640-4000.

Affirmation

I CERTIFY THAT ALL INFORMATION CONTAINED IN THIS FORM IS ACCURATE AND COMPLETE, AND UNDERSTAND THAT IF THIS REQUEST FOR WAIVER IS DENIED AND I FAIL TO MEET THE REQUIREMENTS OF THIS SOLICITATION, MY RESPONSE TO THIS SOLICITATION WILL BE DEEMED NON-RESPONSIVE.
I. PROPOSER is a:

________ Local Business: A local business has a permanent place of business in Palm Beach County.

(Please indicate):

________ Headquarters located in Palm Beach County

________ Permanent office or other site located in Palm Beach County from which the PROPOSER will produce a substantial portion of the goods and/or services.

II. The attached copy of PROPOSER’S County Business Tax Receipt verifies PROPOSER’S permanent place of business.

THIS CERTIFICATION is submitted by __________________________________, as _____________________________.

(Name of Individual) (Title/Position) (Firm Name of PROPOSER)

Who hereby certifies that the information stated above is true and correct and that the Palm Beach County Business Tax Receipt is a true and correct copy of the original receipt. Further, it is hereby acknowledged that any misrepresentation by the PROPOSER on this Certification will be considered an unethical business practice and be grounds for sanctions against future AUTHORITY business with the PROPOSER.

_________________________________________  __________________

(Signature) (Date)
PROPOSAL FORM 9 - QUALIFICATION STATEMENT

PROPOSER’S QUALIFICATION STATEMENT

THE UNDERSIGNED CERTIFIES UNDER OATH THE TRUTH AND CORRECTNESS OF ALL STATEMENTS AND OF ALL ANSWERS TO QUESTIONS MADE HEREINAFTER:

SUBMITTED TO: SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
PURCHASING SERVICES DEPARTMENT
7501 NORTH JOG ROAD
WEST PALM BEACH, FL 33412

CHECK ONE

SUBMITTED BY:
NAME: __________________________________________________ PARTNERSHIP: ☐
ADDRESS: _______________________________________________ INDIVIDUAL: ☐
CITY, STATE, ZIP: _________________________________________ OTHER* ☐

FEDERAL IDENTIFICATION NUMBER (FID) _______________________

( * IF OTHER IS BEING CHECKED, PLEASE PROVIDE SUPPORTING DOCUMENTATION TO VALIDATE THE LEGALITY OF THE FIRM)

1. STATE THE TRUE, EXACT, CORRECT AND COMPLETE NAME OF THE PARTNERSHIP, TRADE OR FICTITIOUS NAME UNDER WHICH YOU DO BUSINESS AND THE ADDRESS OF THE PLACE OF BUSINESS.

THE CORRECT NAME OF THE PROPOSER IS:
________________________________________________________________________________

THE ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS IS:
________________________________________________________________________________
________________________________________________________________________________

2. IF PROPOSER IS CORPORATION, ANSWER THE FOLLOWING:

a. DATE OF INCORPORATION: _________________________________________________
b. STATE OF INCORPORATION: ______________________________________________
c. PRESIDENT’S NAME: _____________________________________________________
d. VICE PRESIDENT’S NAME: ______________________________________________
e. SECRETARY’S NAME: _____________________________________________________
f. TREASURER’S NAME: _____________________________________________________
g. NAME AND ADDRESS OF RESIDENT AGENT: ______________________________________
______________________________________________________________________

3. IF PROPOSER IS AN INDIVIDUAL OR A PARTNERSHIP, ANSWER THE FOLLOWING:

a. DATE OF ORGANIZATION: _______________________
b. NAME, ADDRESS AND OWNERSHIP UNITS OF ALL PARTNERS:
________________________________________________________________________________
________________________________________________________________________________
________________________________________________________________________________
c. STATE WHETHER GENERAL OR LIMITED PARTNERSHIP: ____________________________
4. **IF PROPOSER IS OTHER THAN AN INDIVIDUAL, CORPORATION OR PARTNERSHIP, DESCRIBE THE ORGANIZATION AND GIVE THE NAME AND ADDRESS OF PRINCIPALS:**

__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

5. **IF PROPOSER IS OPERATING UNDER A FICTITIOUS NAME, SUBMIT EVIDENCE OF COMPLIANCE WITH THE FLORIDA FICTITIOUS NAME STATUTE.**

__________________________________________________________________________________

6. **HOW MANY YEARS HAS YOUR ORGANIZATION BEEN IN BUSINESS UNDER ITS PRESENT BUSINESS NAME?**

UNDER WHAT OTHER FORMER NAMES HAS YOUR ORGANIZATION OPERATED?

__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

7. **INDICATE REGISTRATION, LICENSE NUMBERS OR CERTIFICATE NUMBERS FOR THE BUSINESSES OR PROFESSIONS, WHICH ARE THE SUBJECT OF THIS RFP SOLICITATION. PLEASE ATTACH CERTIFICATE OF COMPETENCY AND/OR STATE REGISTRATION.**

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8. **PROVIDE A NARRATIVE OF FIRM’S SAFETY PROGRAM, QUALITY ASSURANCE/QUALITY CONTROL MANAGEMENT METHODS.**

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9. **LIST AND DESCRIBE ALL BANKRUPTCY PETITIONS (VOLUNTARY OR IN VOLUNTARY) WHICH HAVE BEEN FILED BY OR AGAINST THE PROPOSER, ITS PARENT OR SUBSIDIARIES OR PREDECESSOR ORGANIZATIONS DURING THE PAST FIVE (5) YEARS. INCLUDE IN THE DESCRIPTION, THE DISPOSITION OF EACH SUCH PETITION.**

__________________________________________________________________________________
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__________________________________________________________________________________
11. List and describe any disciplinary action, administrative proceeding, malpractice claim or other like proceeding against your firm or any of its lawyers, whether current or pending, as well as any such action, proceeding or claim occurring during the last five (5) years.

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12. Has the proposer, its principals, officers or predecessors' organization(s) been convicted of a public entity crime, debarred or suspended from bidding by any governmental entity during the last five (5) years? If so, provide details.

__________________________________________________________________________________
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13. Has the proposer in the past four (4) years, been rendered a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the proposer discriminated against its subcontractors, vendors, suppliers or commercial customers? If yes, proposer shall provide a list of all instances to include but not limited to; description of the status or resolution of the complaint, including any remedial action taken. (Attach additional sheets as necessary)

__________________________________________________________________________________
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The proposer acknowledges and understands that the information contained in response to this qualifications’ statement shall be relied upon by the solid waste authority of Palm Beach County (Authority), in awarding the contract and such information is warranted by proposer to be true. The discovery of any omission or misstatement that materially affects the proposer’s qualifications to perform under the contract shall cause the Authority to reject the proposal, and if after the award, to cancel and terminate the award and/or contract.

(Signed): ________________________________________

(Printed Name): __________________________________

(Title): ________________________________________
**RESIDENTIAL CURBSIDE**

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<th>Description</th>
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<td>Recycling Vehicles</td>
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<td>Recycling Employees</td>
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Please describe vehicle type and load capacity for vehicles listed above:

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**RESIDENTIAL CONTAINERIZED**

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Please describe vehicle type and load capacity for vehicles listed above:

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<td>Roll-off Employees</td>
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Please describe vehicle type and load capacity for vehicles listed above:

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## MAINTENANCE STAFF

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<th>Description</th>
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<tr>
<td>Manager</td>
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<td>Other employees</td>
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Please provide type and years of experience:

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## BACKUP COLLECTION EQUIPMENT

Please list any spare equipment (provide type and load capacity):

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The following Attachments are included:

A. Sample Agreement
B. Purchasing Manual Definitions
C. Section 6, Economic Inclusion Policy and Procedures
D. Service Area Map
SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
7501 NORTH JOG RD, WEST PALM BEACH, FL 33412

SOLID WASTE AND RECYCLING COLLECTION SERVICES
FRANCHISE AGREEMENT

BETWEEN

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY

AND

______________________________

FOR

SERVICE AREA 6

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A. Description of Boundaries of Service Area
B. Approved Rate Schedule
C. Payment Adjustment Schedule
D. Performance Bond Requirement
E. Monthly Financial Reporting Format
F. Authority Public Drop-off Recycling Containers
G. Mobilization and Preparation
H. Monthly Subcontractor/Supplier Utilization Report
I. Change to Utilization Plan
J. Post Award Vendor Subcontracting Waiver Request
This Agreement is hereby made and entered into this _____ day of ___________, 2019, between Solid Waste Authority of Palm Beach County, a special district created pursuant to Chapter 2001-331, Laws of Florida, (hereinafter referred to as "Authority") and ___________________________ (hereinafter referred to as “Contractor”).

In consideration of the mutual benefits, the parties herein agree as follows:

1. TERM:

   The term of this Agreement shall be for the period beginning October 1, 2019, and expiring September 30, 2026.

2. DEFINITIONS:

   To the extent the definitions contained herein conflict with similar definitions contained in any federal, state or local law, the definition herein shall prevail. However, nothing contained herein shall be interpreted to require the Contractor to undertake any conduct which is contrary to federal, state or local law.

   A. Authority shall mean the Solid Waste Authority of Palm Beach County.

   B. Biohazardous or Biomedical Wastes shall mean those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; including, but not limited to, waste resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves.

   C. Bulk Trash shall mean any non-vegetative item which cannot be containerized, bagged, or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods and furniture. There shall be no weight limit for any item of Bulk Trash.

   D. Business Days shall mean Monday through Saturday, except for Holidays.

   E. Cart shall mean a curbside container meeting the Authority’s specifications intended for collection via automated or semi-automated means to be supplied by the Contractor to households receiving Curbside Residential Solid Waste Collection Service.

   F. Collection shall mean the process whereby Solid Waste, Garbage, Trash, Bulk Trash, Vegetative Waste or Recovered Material is gathered and transported to a Designated Facility.
G. **Commercial Recycling Collection Service** shall mean the Dual Stream Recycling Collection of Recovered Materials by the Contractor for entities within the Service Area that are not serviced by Residential Recycling Collection Service.

H. **Commercial Single Stream Recycling Collection Service** shall mean the practice of collecting Source Separated Recovered Materials generated by commercial establishments in a commingled form without separating the fiber from the other materials as is required under Dual Stream Collection.

I. **Commercial Solid Waste** shall include Solid Waste that is not Residential Solid Waste, but for the purposes of this Agreement shall exclude commercial Vegetative Waste, the collection of which is not exclusive to the Contractor.

J. **Commercial Solid Waste Collection Service** shall mean the collection of Commercial Solid Waste within the Service Area. Such service includes both Containers and Compactors, but does not include Roll-off Collection Services.

K. **Compactor** shall mean any container which has compaction mechanism(s), whether stationary or mobile, all inclusive.

L. **Construction and Demolition Debris (C&D)** shall mean materials generally considered to be not water soluble and which are nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, roofing material, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project. Mixing of a de minimis amount of waste other than C&D from the construction site will not automatically cause it to be classified as other than C&D.

M. **Container** shall mean and include any container designed or intended to be mechanically dumped into a loader packer type truck or recycling vehicle other than a Cart. All Containers must be of the specifications as designated by the Contract Administrator, in writing.

N. **Containerized Residential Recycling Collection Service** shall mean the Dual Stream Recycling collection of Recovered Materials by the Contractor from Dwelling Units in the Service Area that require the use of Containers for the collection of Recovered Materials, and which also receive Residential Collection Service for Solid Waste, and the delivery of those Recovered Materials to the Recovered Materials Processing Facility or designated Authority transfer station.

O. **Containerized Residential Solid Waste Collection Service** shall mean Solid Waste collection service of all Dwelling Units whose Garbage, Trash or Bulk Trash is collected by means of a central or shared Container and not by means of a Cart.

P. **Contract** shall mean this Agreement.

Q. **Contractor** shall mean that person or entity identified as such in the first paragraph of this Agreement that has entered into this Agreement to provide the services described herein for the Service Area.
R. **Contract Administrator** shall mean the person designated by the Authority who shall act as the Authority's representative during the term of this Agreement, or his/her designee.

S. **County** shall mean Palm Beach County.

T. **Curbside Residential Recycling Collection Service** shall mean the Dual Stream Recycling collection of Recovered Materials by the Contractor from all Dwelling Units in the Service Area that also receive Curbside Residential Solid Waste Collection Service for Solid Waste, and other Dwelling Units as designated by the Authority, and the delivery of those Recovered Materials to the Authority Recovered Materials Processing Facility or designated Authority transfer station.

U. **Curbside Residential Solid Waste Collection Service** shall mean Residential Solid Waste and Vegetative Waste Collection service for all Dwelling Units from which Garbage is collected by means of a Cart at curbside or roadway and delivery to an Authority designated disposal facility or transfer station.

V. **Designated Facility** shall mean an Authority owned disposal, processing, recovery, recycling or transfer facility, or another facility if specifically designated in writing by the Contract Administrator to the Contractor.

W. **Dual Stream Recycling Collection** shall mean the practice of collecting Recovered Materials in two separate containers, one for fiber and one for commingled containers and other materials accepted in the Authority's recycling program.

X. **Dwelling Unit** shall mean any type of structure or building unit intended for or capable of being utilized for residential living other than a licensed Hotel or Motel unit.

Y. **Fiscal Year** shall mean the period starting on October 1 of a given year and ending September 30 of the following year during this Agreement.

Z. **Garbage** shall mean all putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities, but shall not include Vegetative Waste or Special Waste.

AA. **Hazardous Waste** shall mean Solid Waste as defined by the State of Florida Department of Environmental Regulation as a hazardous waste in the State of Florida Administrative Code, or by any future legislative action or by federal, state or local law.

BB. **Hotel or Motel** shall mean a structure or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven days or less. To meet this definition, the Hotel or Motel must be licensed to operate as such. “Transient” has the meaning as defined in Chapter 509, Florida Statutes (2011), or its successor law.

CC. **Land Clearing** shall mean the removal of vegetation for the purpose of improving real property through remodeling, new construction or agricultural use. Land clearing shall include, but is not
limited to, trees, brush, dirt, rocks or similar obstructions/materials being removed from a parcel of assessed residential land using mechanical devices such as a bobcat, backhoe, front-end loader, tractor, bulldozer, etc. Removal refers to the physical action of the equipment digging, scraping, bulldozing, and/or pulling debris from the ground. Transporting legally cut vegetation to the curb using a mechanical device does not constitute land clearing. A chainsaw is not to be considered a mechanical device in the removal process.

DD. **Mixed Paper** shall be defined as a mixture of paper products including magazines, catalogues, phone books, cereal boxes, soda and beer can boxes, chipboard, file folders, envelopes, letter paper, junk mail, notebook paper and any other clean paper products.

EE. **Peak Times** shall mean the period beginning on November 1 of a given year and ending on April 30 of the following year, unless otherwise specified by the Authority.

FF. **Public Awareness Program** shall mean that program developed by the Authority to inform and encourage residential and commercial collection customers to use all Collection services offered by the Authority through the Agreement. It shall also mean information concerning level of service and changes in scope of service.

GG. **Radio-frequency identification (RFID)** shall mean the wireless non-contact use of radiofrequency electromagnetic fields to transfer data, for the purposes of automatically identifying and tracking tags attached to objects. The tags contain electronically stored information.

HH. **Recovered Materials** shall mean metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and Source Separated or have been removed from the waste stream for sale, use, or reuse as raw materials, but the term does not include materials destined for any use that constitutes disposal, including but not limited to landfilling, placement upon the land or in the water, or combustion. The materials currently designated by the Authority for Residential Recycling Collection Service and Commercial Recycling Collection Service are newspapers (including inserts); magazines; catalogs; phone books; mixed paper, aluminum cans, foil, and pans; plastic containers #1 - #7 (except styrofoam); glass bottles and jars; gable-topped containers; aseptic containers; corrugated cardboard; kraft bags; and steel and ferrous cans.

II. **Recovered Materials Processing Facility (RMPF)** shall mean any facilities operated or managed by, for or on behalf of the Authority for the purpose of receiving, sorting, processing, storing, and/or preparing Recovered Materials, plus other items authorized by the Authority, for sale, as specifically designated by the Contract Administrator, in writing.

JJ. **Recycling Container** shall mean a rigid container made of plastic or other suitable substance or a paper bag that is used for the storage of Recovered Materials.


LL. **Residential Solid Waste** shall mean Garbage, Trash and Bulk Trash resulting from the normal housekeeping activities of a Dwelling Unit, but shall not include Vegetative Waste. Residential
Solid Waste shall also mean Construction and Demolition Debris (C&D) resulting from minor home repair from the Dwelling Unit.

MM. Residential Solid Waste Collection Service shall mean Curbside Residential Solid Waste Collection Service and/or Containerized Residential Solid Waste Collection Service.

NN. Roll-off Collection Service shall mean the Collection of C&D-only roll-off containers, or the Collection of C&D by other mechanical means, within temporary locations in the Service Area, limited to new construction sites and remodeling or refurbishment sites and shall require Solid Waste Authority Rule IV Permit. Permanent businesses or manufacturing companies that generate C&D on site as part of their operations may obtain roll-off containers from any source, including the Contractor, for the purpose of recycling the C&D material, if, and only if, they also have a container for all other Commercial Solid Waste which is collected exclusively by the Contractor. Roll-off collection Service also includes the collection of commercial vegetative waste.

OO. Service Area shall mean that portion of the unincorporated area of the County as described in Exhibit A, for which Contractor has been granted an exclusive franchise.

PP. Sludge shall mean a solid or semi-solid, or liquid generated from any waste water treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.

QQ. Solid Waste shall mean Residential Solid Waste and Commercial Solid Waste, but shall not include Special Waste, as defined in this Agreement, or Recovered Materials. Solid Waste shall mean Bulk Waste, Garbage, rubbish, refuse, Trash, Vegetative Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations, but for the purpose of this Agreement shall not include Special Waste.

RR. Solid Waste Authority Disposal Facility shall mean place or places specifically managed or operated by the Solid Waste Authority of Palm Beach County.

SS. Source Separated shall mean that Recovered Materials are separated from Solid Waste at the location where the recovered materials and solid waste are generated. The term does not require that various types of Recovered Materials be separated from each other, and recognizes de minimis Solid Waste may be included in the recovered materials. Materials are not considered Source Separated when two or more types of Recovered Materials are deposited in combination with each other in a Container located where the materials are generated and when such materials contain more than 10 percent solid waste by volume or weight, in which case the materials are Solid Waste. The term “various types of Recovered Materials” means metals, paper, glass, plastic, textiles and rubber.

TT. Special Services shall mean any services requested or required by the customer which are in addition to, or a change in, Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service and Commercial Solid Waste Collection Service as set out or similar to those listed in Exhibit B.
UU. **Special Waste** shall include automobiles, boats, internal combustion engines, non-automobile tires, Sludge, dead animals, livestock waste, septic tank waste, Biohazardous or Biomedical Waste, liquid waste, and Hazardous Waste. Special Waste may also include items determined by the Contract Administrator to be reasonably unmanageable.

VV. **Trash** shall mean all refuse, accumulation of paper, rags, wooden or paper boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than Garbage, which are usual to housekeeping and to the operation of stores, offices and other business places, but shall not include Vegetative Waste.

WW. **Force Majeure** shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, hurricanes, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, or sabotage.

XX. **Vegetative Container** shall mean any commonly available light gauge steel, plastic, or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s). A Vegetative Container is also defined as a heavy duty, securely tied, plastic bag designed for use as a vegetation receptacle. Such container including Vegetative Waste shall not exceed fifty (50) gallons in capacity or fifty (50) pounds in weight.

YY. **Vegetative Waste** shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as tree and shrub trimming materials, grass clippings, palm fronds, tree branches and similar other matter usually produced as refuse in the care of lawns, landscaping and yards.

3. **SERVICES PROVIDED BY CONTRACTOR:**

   The Contractor shall provide mandatory Residential automated or semi-automated Solid Waste Collection Services and Residential Recycling Collection Services in the Service Area. The right to provide such Collection Services in the Service Area shall be exclusive to the Contractor.

   The Contractor shall provide Commercial Solid Waste Collection Services in the Service Area, which shall be an exclusive right to the Contractor. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Services and disposal costs not being billed and collected by the Authority or its designee.

   Roll-off Collection Services shall not be exclusive to the Contractor. Vegetative Waste and Construction and Demolition Debris (C&D) shall not be exclusive to the Contractor.

   Collection of Solid Waste contained in roll-off containers for businesses in the Service Area is exclusive to the Contractor.

   The Contractor shall provide Commercial Recycling Collection Services in the Service Area upon request by the Customer or the Authority, or through the solicitation efforts of the Contractor. However, Commercial Recycling Collection Services are not exclusive to the Contractor in the Service Area.
The Contractor shall use good faith and its best efforts to cooperate with any commercial recycling haulers collecting Source Separated Recovered Materials from commercial customers in the Service Area.

4. SOLID WASTE AND VEGETATIVE WASTE COLLECTION SERVICE:

A. Curbside Residential Solid Waste and Vegetative Waste Collection Services: The initial Curbside Residential Collection Service provided by this Agreement shall be as set forth in this Section 4.A and shall continue until such time as the Contract is terminated. Whereas the Contractor is providing Solid Waste and Vegetative Waste Collection Service on behalf of the Authority, all Solid Waste and Vegetative Waste collected by the Contractor in the Service Area(s) must be collected in the manner and for the rates and fees provided herein, and delivered to a Designated Facility. Solid Waste collected by the Contractor in the Service Area(s) pursuant to this Agreement may not be delivered to any facility other than those specified herein unless authorized by the Contract Administrator, in writing. In addition to the provisions and prohibitions provided for herein, Contractor is required to comply with all Federal, State and local laws, regulations and rules, including rules of the Authority, and is subject to the penalties provided for therein. To the extent that the requirements, prohibitions and penalties provided for in this Agreement are more stringent than those provided for under Federal, State and local laws, regulations and rules, including any rules of the Authority, this Agreement prevails.

1. Conditions and Frequency of Service: All Curbside Residential Solid Waste properly placed in Carts and Vegetative Waste properly containerized in Vegetative Containers or otherwise prepared for collection as dictated by this Agreement shall be collected by the Contractor.

All Curbside Residential Solid Waste Collection Service, with the exception of the holidays identified in Section 7, shall be provided twice per week, unless options of service (Exhibit B) are implemented, with not less than forty-eight (48) hours nor more than seventy-two (72) hours between regularly scheduled pick-up days. Missed Saturday Residential Solid Waste and Vegetative Waste must be collected by 12:00 noon on the following Monday.

The Contractor shall provide Semi-automated/Automated Garbage Collection services, during the term of this agreement as follows:

a) For the first sixty (60) days of this Agreement the Contractor shall collect all Garbage and Trash placed both inside and outside of the Carts; and

b) thereafter, and for the remaining term of this Agreement, the Contractor shall not be responsible for collection of Garbage placed outside the Carts; however, notwithstanding, the Contractor shall collect Garbage from both inside and outside the Cart on the Friday, Saturday, and Monday following Thanksgiving, and from December 26 through January 1, of each year during the term of this Agreement.

All Vegetative Waste up to six (6) cubic yards placed at an accessible pick-up location shall be collected separately from Residential Solid Waste and Recovered Materials by the Contractor. If the customer has commingled Residential Solid Waste and Vegetative Waste, the Contractor shall tag the pile with an Authority provided tag, and is not required to collect the commingled...
material until the first regularly scheduled collection day after customer has properly separated the material, although nothing shall preclude the Contractor from collecting the Vegetative Waste and Residential Solid Waste sooner. In the event the customer does not wish to properly separate the material, the customer may pay the Contractor or any other private hauler to collect the non-conforming material. If the Contractor fails to tag the non-conforming pile, the Contractor will be required to collect the pile at no cost to the customer or the Authority by the end of the next Business Day. The Contractor shall not intentionally commingle Vegetative Waste with Residential Solid Waste.

Vegetative Waste shall be collected one (1) time per week on one (1) of the two (2) scheduled route days. The Contractor shall not be required to collect more than six (6) cubic yards of Vegetative Waste per dwelling unit per week. In the event that more than six (6) cubic yards is placed at the curb by the customer, the Contractor shall not be required to collect the pile. Contractor will tag the pile with an Authority provided tag, instructing the customer to contact the Authority for an estimate for removal. The Contractor shall conduct estimates no later than 72 hours after initial notice from the Authority, however nothing shall preclude the Contractor from conducting the estimate sooner. Pricing shall be based on the per cubic yard rate in Exhibit B. Removal of material by the Contractor shall be completed no later than 72 hours after payment is received. Failure to remove material within the 72 hours of payment shall be subject to assessments as set forth in this Agreement.

With the exception of palm fronds, tree branches and Christmas trees, The Contractor shall have a reliable expectation that all Vegetative Waste will be bagged or in a Vegetative Container, and that each Vegetative container, when filled, will not exceed 50 pounds in weight or 50 gallons in capacity. The Contractor shall have a reliable expectation that branches will not exceed 6 feet in length, 6” in diameter or 50 pounds in weight, that there is no length limitation on palm fronds, and that Christmas trees will be presented whole or in sections that in either case shall not exceed 8 ft. in length or 50 pounds in weight. In the event that Vegetative Waste is not presented as stated in this paragraph, the Contractor shall tag the pile with an Authority provided tag, and shall not be required to collect the non-conforming material until the first regularly scheduled collection day after the customer has properly presented the material, although nothing shall preclude the Contractor from collecting the Vegetative Waste sooner.

Trash, Bulk Trash, and Construction and Demolition Debris (C&D) resulting from minor home maintenance and repair only will be collected at the curb. Bulk trash shall be limited to three (3) items per week, and collected on the second scheduled route day. Contractor is not required to collect sections of fencing or debris resulting from the demolition of sheds, storage buildings and other like structures or debris generated by major remodeling/construction projects. Contractor is required to collect a maximum of two (2) cubic yards of C&D per second scheduled collection day per dwelling unit. In the event that the customer places more than two (2) cubic yards of C&D for Collection, the Contractor shall tag the pile with an Authority provided tag, instructing the customer to contact the Authority for a removal estimate. Contractor shall follow same guidelines as vegetative estimates stated above. The Contractor shall have a reliable expectation that small pieces of C&D, such as tile or roofing material, shall be containerized and weigh not more than 50 pounds per container. There shall be no weight limit for any item of Bulk Trash.
In the event Bulk Trash contains Chlorofluorocarbons (CFCs), the Contractor shall collect the Bulk Trash item separately in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFC’s into the atmosphere, to the Authority landfill, the Belle Glade transfer station or to a scrap dealer located in Palm Beach County.

2. **Accessibility:** Contractor shall collect all Residential Solid Waste and Vegetative Waste placed Curbside where the edge of the waste is within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location agreed to by the Contractor that will provide safe and efficient accessibility for the Contractor's collection crew and vehicle. In the event there is insufficient space between the curb and the sidewalk to place Residential Solid Waste and Vegetative Waste, if the edge of all Residential Solid Waste and Vegetative Waste to be collected is within two (2) feet of the sidewalk, the Contractor shall be required to collect it.

In the event there is no other accessible location available to the customer, all Residential Solid Waste and Vegetative Waste placed under electrical wires, trees or other obstructions preventing the use of a vehicle with mechanical loading capability shall be collected by means of a rear-load collection vehicle. Contractor may request, in writing, the Contract Administrator to approve an alternate Collection location. Contract Administrator’s decision regarding the approval of a suitable alternate Collection location shall be final.

For purposes of this Agreement, public road or public right-of-way means a road owned and maintained by the County or special district, or a road on private property for which an easement has been granted to the public and when such road is constructed and maintained to a standard whereby access is available by the collection vehicle.

Where the resident of a dwelling unit is physically unable to deliver Residential Solid Waste to curbside and this is so certified by the Contract Administrator, or the residential structure is located in such a manner as to prevent access to the Residential Solid Waste by the Contractor's crew or vehicle, an alternative location may be arranged between the customer and the Contractor at no extra cost to the customer. In the event the customer and the Contractor cannot agree on an alternative location the Contract Administrator shall designate the alternative location, and the Contract Administrator's decision shall be final. Regardless of any accommodation made pursuant to the facts described in this paragraph, Vegetative Waste must continue to be placed curbside.

Except in the case described in the previous paragraph, if the customer requests Special Services, such as back door service, these services shall be billed directly to the customer by the Contractor in accordance with Exhibit B. In the event that a Special Service request is not listed in Exhibit B, such charges shall then be established through negotiations between the Contractor and the customer. In the event the customer and the Contractor cannot reach an agreement on the cost, the Contract Administrator shall determine the cost, and such determination shall be final.

3. **Carts:** Contractor shall deliver each Curbside Residential unit one Cart, and be responsible for all maintenance, repair, and replacement. Upon the completion of this Agreement Carts will be property of the Authority. A Cart monthly maintenance fee, as set forth in Exhibit B,
will be paid to the Contractor by the Authority. Carts must meet all specifications as set forth below:

1. Each Cart shall consist of a body, lid, wheels, axle, and necessary accessories;
2. Carts will be procured in 44-46, 64-66 and 94–96 gallon sizes with gray body and gray lid;
3. The wheeled Carts shall be designed to contain solid waste materials including garbage, refuse, and rubbish;
4. Carts shall have the Authority’s logo hot stamped onto the top half of the two opposite sides (neither the front nor back) of the cart body. The logo shall be approximately 8 inches high by 8 inches wide. Camera ready artwork will be provided as well as the defined color(s) at the time the contract is awarded;
5. Each Cart shall have a unique integrated RFID tag installed into the Roll Cart body. RFID tag values shall be written and locked at time of Roll Cart production. Adhesive or sticker RFID tags are unacceptable. Each RFID tag shall be tested to ensure that it is working properly;
6. The Carts shall be designed to be dumped by both semi-automated and fully-automated disposal truck systems;
7. The Carts shall be designed to be fit with axles which do not require holes or bolts through the body, to eliminate potential leakage of liquids escaping odors or entry of insects;
8. All Carts must meet all ANSI (American National Compliance) Standards;
9. Lid shall not be ventilated and shall be held closed by its own weight;
10. An arrow pointed in the direction of the front of the Cart shall be molded into the top of the Cart’s lid; and
11. Printed on the top of the lid in block letters not obstructing other information:

   "GARBAGE ONLY"
   "NO HAZARDOUS WASTE"

The Contractor’s collection vehicles shall be equipped with Radio-Frequency Identification (RFID) reading equipment that is compatible with the RFID tags specified for the Roll Carts. The RFID reading equipment shall be supplied and maintained by the Contractor. Data acquired with the RFID reading equipment will be used to: (a) track collection events for customer service purposes, dispute resolution, and program participation; (b) track and verify the location of Containers; (c) track repairs that are required/have been performed; and (d) provide additional Solid Waste collection information as requested by the Authority. The Contract Administrator and the Authority Customer Information Service (CIS) office personnel shall have access to this system; (should be web-based).

B. Containerized Residential Solid Waste Collection Services: The initial Containerized Residential Collection Service provided by this Agreement shall be as set forth in this Section 4.B and shall continue until such time as the Contract is terminated.

1. Conditions and Frequency of Service: The Contractor shall provide Containerized Residential Solid Waste Collection Service to all Dwelling Units in the Service Area that are suitable to receive such service and request such service. A minimum of once per week service
is required of all customers, or such other minimum frequency as provided by law. Normal Collection service, not including Bulk Trash collection, shall be twice per week. However, the customer may elect to receive once a week service during off-Peak Times of the year and up to three times per week Collection service during Peak Times, as required, at no additional cost to the customer as long as the average is two times per week on an annual basis. The size and location of the Container and frequency of collection (more than the minimum of once per week) shall be determined by the Contractor and the residential complex in accordance with this Agreement. However, size and frequency shall be sufficient to provide that no Residential Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer. In the case of an unresolved dispute, the Contract Administrator shall resolve such issue. The Contractor shall be paid the appropriate containerized unit collection rate in accordance with Exhibit B. Any service requested by the residential complex above three times per week or greater than the two times per week annual average, with the exception of Bulk Trash collection, shall be paid in accordance with the “commercial solid waste collection” rates in Exhibit B.

The frequency of collection of Bulk Trash outside the container shall be no less than once per week unless otherwise agreed to by the customer and approved by the Contract Administrator. A community may request a roll-off container for bulk waste collected one (1) time per week in accordance with the maintenance fees set forth in Exhibit B. Any disputes as to the frequency of Bulk Trash collection shall be resolved by the Contract Administrator, whose determination shall be final. In the event Bulk Trash contains Chloroflorocarbons, (CFC’s), the Contractor shall collect the Bulk Trash item separately, in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFC’s into the atmosphere, to the Authority landfill, the Belle Glade transfer station or to a scrap dealer located in Palm Beach County. There shall be no weight limit for any Bulk Trash item.

2. **Method of Collecting:** Collection shall occur on a regular basis with a frequency of pick-up as provided herein. Such service shall be provided by mechanical Container as defined herein. However, where a customer generates less than two (2) cubic yards per week of waste, alternate non-mechanical containers (e.g., Carts) may be utilized.

The Contractor shall provide Containers and charge the customer the approved monthly container maintenance fees as necessary. Commercial Container monthly maintenance fees, terms, and provisions contained in the Agreement shall also apply to Containers utilized for residential service. Customers may own their Container(s) provided that the customer is completely responsible for its proper maintenance. Such Containers shall be of a type that can be serviced by the Contractor's equipment.

The Contractor shall collect all Residential Solid Waste placed in a Container or alternate Carts, and shall not be required to collect Residential Solid Waste that is not so placed. The Contractor has a reliable expectation that Vegetative Waste will not be commingled with Garbage. Where Carts are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer.
All Containers and Compactors provided by the Contractor shall be in good condition. In the event a Compactor, which is provided by a source other than the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification, sufficient to provide uninterrupted service to the customer until the Compactor is repaired or replaced. Contractor may charge the customer for any Container maintenance in accordance with the rates set forth in Exhibit B. In the event a Compactor, which is provided by the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification sufficient to provide uninterrupted services until Compactor is repaired or replaced at no charge to the customer. The Contractor shall have a regularly scheduled replacement program for all Containers to ensure Containers are in good condition.

3. Service Interruption: The Contractor may not stop service to a residential containerized customer for non-payment of fees for Container monthly maintenance or special services without notification by certified letter to the Contract Administrator or his designee and the customer at which time the Contract Administrator shall have five (5) Business Days following receipt of such notice to investigate and respond.

C. Commercial Solid Waste Collection Service: The Contractor shall collect and dispose of all Commercial Solid Waste in the Service Area. Such Commercial Collection Service shall be governed by the following material terms:

1. Conditions and Frequency of Service: A minimum of once-a-week service is required of all commercial customers or such other minimum frequency as provided by law. However, customers utilizing a roll-off Compactor Container shall have the ability to receive service on an on-call basis provided the roll-off Compactor is free from leaks or spillage. Permanent roll-off and Compactor Containers must be collected within 24 hours of customer request. There shall be no odor at any time emanating from the roll-off Compactor, or vermin in the immediate area. If complaints are received, or an inspection conducted by the Authority proves the roll-off Compactor violates any of the above criteria, the Contract Administrator will determine the frequency of service. The size of the Container and the frequency of collection shall be determined between the customer and the Contractor. However size and frequency shall be sufficient to provide that no Commercial Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer.

2. Method of Collecting: Service shall be provided by mechanical Container as defined herein. However, where a customer generates less than one (1) cubic yard per week of waste, Carts may be utilized. Commercial small waste generators who generate less than one (1) cubic yard per week may purchase up to two (2) Carts, and shall be charged the monthly rate and Cart maintenance fee, as set out in Exhibit B.

The Contractor shall provide Containers as necessary however, customers may own their Container provided that the customer is completely responsible for its proper maintenance. Such customer provided Containers shall be of a type that can be serviced by the Contractor's equipment. All Commercial Solid Waste shall be placed in a Container,
Compactor or Cart. Vegetative Waste shall not be commingled with Garbage. All Carts, Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer.

Compactors may be obtained by customers from any source provided that such Compactor must be of a type that can be serviced by the Contractor's equipment and the customer shall be completely responsible for its proper maintenance. Compactor frequency of collection shall be sufficient to contain the waste without spillage.

All Carts, Containers and Compactors provided by the Contractor shall be in good condition, painted and neatly labeled with the Contractor’s name, phone number and size of Container and any other labeling as may be required by Authority rule. In the event a Compactor, which is provided by a source other than the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification sufficient to provide uninterrupted service to the customer until the Compactor is repaired or replaced. The Contractor may charge the customer in accordance with the rates set forth in Exhibit B.

In the event a Compactor, which is provided by the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification sufficient to provide uninterrupted service until the Compactor is repaired or replaced. The Contractor may charge the customer for collection and disposal only in accordance with rates set forth in Exhibit B.

3. Level, Type and Disclosure of Rates for Commercial Collection and Other Services:

a. Commercial Collection Service: The Contractor shall only charge rates as set out in Exhibit B or as otherwise allowed by this Agreement. The Contractor may not bill the customer more than thirty (30) days in advance unless otherwise requested by the customer. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement on level of service, the Contract Administrator or his designee shall establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit B. The Contractor will be responsible for the billing and collection of Commercial Solid Waste Collection Services, disposal tipping fees, Special Service(s) fees and Container monthly maintenance charges except as otherwise provided in this Agreement.

b. Disclosure: By October 1st of each year of this Agreement, the Contractor shall provide the customer an annual disclosure statement which may be placed either directly on the billing statement generated by the Contractor’s billing system or on a separate cover letter included with the billing statement, and provide a Level of Service form as provided in Exhibit B. Contractor shall send a residential containerized and commercial customer list to the Authority as well as a master copy of the disclosure statement which includes the following language:
"REGULATION BY THE SOLID WASTE AUTHORITY"
The terms and conditions of this Commercial Solid Waste and Recycling Collection Services Agreement are regulated by a franchise granted by the Solid Waste Authority of Palm Beach County. Should the customer have any questions relating to the terms and conditions of this Agreement, the customer may call the Contract Administrator at 1-866-792-4636.

"COMMERCIAL COLLECTION CONTAINERS"
The commercial collection container shall be of a type that can be serviced by the Contractor's collection equipment. The customer may either purchase the commercial collection Container from any source or rent such Container from the Contractor at the container monthly maintenance fee as approved by the Authority. If the customer chooses to use a Compactor, the customer may rent, lease or own the Compactor from any source, provided that the Compactor can be serviced by the Contractor's collection equipment. Commercial collection Containers and Compactors shall be maintained in a serviceable, safe, and sanitary condition by the owner of the Container or Compactor. However, damage caused by the Contractor to a customer owned Container or Compactor shall be repaired at no cost to the customer or the Authority.

"SPECIAL SERVICES"
If the customer requests, the Contractor is required to provide special services for collection of solid waste such as rolling Containers out of storage areas, opening doors or gates for access, or other such special services. However, such special services may be provided by the customer, through its own or other personnel. If the Contractor provides special services, such charge must be separately stated under the "RATES FOR SERVICES" disclosure statement. The maximum for these special service rates are fixed by the Solid Waste Authority. A copy of these rates can be obtained from the Contractor or Contract Administrator.

"RATES FOR SERVICES"
The statement shall incorporate or have attached a rate schedule which specifies the Collection Rate based on size of Container and frequency of service; TYPE indicating whether the Container is for Solid Waste or Recovered Materials, DISPOSAL based on a cost per cubic yard; CONTAINER MAINTENANCE expressed in a monthly flat rate based on the size of the Container; and the cost per month for each SPECIAL SERVICE REQUIRED BY THE CUSTOMER. The notification shall specify the size of Container and frequency of collection of each Container for each business, distinguishing between solid waste and recycling collection service. The notification shall specify in which Service Area the business is located. The notification shall itemize each cost individually. A sample notification shall be approved by the Contract Administrator or his designee before distribution to the customer.
D. **Method of Payment:** The Authority or its designee will be responsible for the billing and collection of payments for Residential Solid Waste Collection Service, including curbside Cart maintenance fee in accordance with Exhibit B. The Contractor shall be responsible for billing and collection of payments for Commercial Solid Waste Collection Service at rates not to exceed those initially set out in Exhibit B as adjusted in subsequent years in accordance with Section 6 and Exhibit C. Contractor shall also be responsible for billing and collection of payments for Special Services related to Residential Solid Waste Collection Service.

E. **Hours of Collection:** Curbside Residential Solid Waste Collection Service shall be provided between the hours of 6:00 a.m. and 5:00 p.m. Monday through Saturday, except as otherwise provided for following a holiday as detailed in Section 4.A.1. Dwelling Units receiving Containerized Residential Solid Waste Collection Service and non-residential collection sites located within 150 yards of residential uses shall only be collected between the hours of 7:00 a.m. and 5:00 p.m. Monday through Saturday. Other non-residential locations may be collected at any time. The hours of collection may be extended due to extraordinary circumstances or conditions with the prior consent of the Contract Administrator.

F. **Routes and Schedules:** The Contractor shall provide the Contract Administrator, in a format acceptable to the Contract Administrator, the schedules for all Collection routes and keep such information current at all times.

The Contract Administrator or designee shall review requested day or starting point change(s) to routes and approve or deny the request(s) within 10 Business Days. The Contract Administrator's decision shall be final. In the event a requested route or schedule change is approved by the Contract Administrator, the Contractor shall notify the customer(s) affected in writing or other manner approved by the Contract Administrator not less than two (2) weeks prior to the change, at no cost to the Authority. Notification of day or starting point changes to routes for Curbside Residential customers shall be by door hanger, unless otherwise approved by the Contract Administrator, and distributed by the Contractor at no cost to the Authority and the customer. Notification to Curbside customers shall be done twice - once two (2) weeks prior to the change and once one (1) week prior to the change. The Contractor shall provide a draft copy of the route change notification to the Contract Administrator for review and approval not less than three (3) weeks prior to printing and distribution.

5. **RECYCLING COLLECTION SERVICE:**

The Contractor shall provide Residential and Commercial Recycling Collection Service in the Service Area, as provided within the Agreement. The Authority or its designee shall be responsible for the billing and collection of payments for Residential Recycling Collection Services. The Contractor shall be responsible for billing and collection of Commercial Recycling Collection Service cost not being billed and collected by the Authority or its designee. Unless otherwise provided for in this Agreement, all Recovered Materials collected by the Contractor in the Service Area(s) must be collected in the manner and for the rates and fees provided herein, and delivered to the Authority's Recovered Materials Processing Facility or an Authority transfer station, or other facility designated in writing by the Contract Administrator. Notwithstanding the foregoing, the Contractor shall retain the right to continue to provide Commercial Recycling Collection Service to contractor's existing Commercial Recycling Collection Service customers in the Service Area, including the delivery of said materials to
facilities not designated by the Authority, under agreements effective and in place as of the date of award of the franchise governed by this Agreement for the term of said agreements. Unless specifically provided to the contrary herein, Contractor shall not compete with the Authority for Recovered Materials within the Franchise area. Recovered Materials collected by the Contractor in the Service Area(s) pursuant to this Agreement may not be delivered to any facility other than those specified herein unless authorized by the Contract Administrator, in writing. In addition to the provisions and prohibitions provided for herein, Contractor is required to comply with all Federal, State and local laws, regulations and rules, including rules of the Authority, and is subject to the penalties provided for therein. To the extent that the requirements, prohibitions and penalties provided for in this Agreement are more stringent than those in Federal, State and local laws, regulations and rules, including rules of the Authority, this Agreement prevails. Contractor shall, upon request of the Authority, provide Authority with a list of all Commercial Recycling Collection Service customers in the Service Area as of the effective date of this Agreement, which list shall include the expiration date for each such customer.

A. Curbside Residential Recycling Collection Services will be governed by the following terms and conditions:

1. Conditions and Frequency of Service: The Contractor shall provide Curbside Residential Recycling Collection Services to all Dwelling Units receiving Curbside Residential Solid Waste Collection Service located in the designated Service Area and to other such Dwelling Units as determined appropriate by the Contract Administrator. This service shall be provided once every week on a scheduled route basis which shall coincide with the regularly scheduled solid waste collection pick-up days.

   Recovered Materials shall not be commingled with other Residential Solid Waste. Contractor's collection personnel shall not knowingly collect Recovered Materials and place in a solid waste collection vehicle or Cart. Commingling of Solid Waste with Recovered Materials shall be subject to assessments as set forth in this Agreement. Recovered Materials set out for collection by Customers must be collected in a vehicle designated solely for the purpose of collecting Recovered Materials. Said vehicle shall contain signage designating the vehicle as such and include the Authority's toll-free new bin telephone number.

2. Accessibility for and Manner of Curbside Recycling Collection: Contractor shall collect all Recovered Materials placed in a Recycling Container or paper bag and additionally cardboard and/or paper bags, which may be placed beside the container, when any edge of said Recovered Materials is placed within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location agreed to by the Contractor that will provide safe and efficient access for the Contractor's collection crew and vehicle. The Contractor must collect as many Recycling Containers, paper bags, bundles, or flattened cardboard, as the customer sets out. Cardboard and/or paper bags shall be collected if placed next to, or inside, the Recycling Container(s). Where the resident is physically unable to deliver Recovered Materials to curbside and this is certified by the Contract Administrator, or the Dwelling Unit is located in such a manner as to prevent access to the Contractor's crew or vehicle, an alternative location may be arranged between the customer and the Contractor at no extra cost to the customer. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pick-up, and such designation shall be final.
3. Recycling Containers: The Contractor shall ensure distribution of Recycling Containers as supplied by the Authority to each unit that is to receive Curbside Residential Recycling Collection Service in the Service Area. The title to these Recycling Containers shall be vested with the Authority. However, customers may use their own additional Recycling Containers or paper bags as long as they are similar and suitable for the service.

B. Containerized Residential Recycling Collection Services will be governed by the following terms and conditions:

1. Conditions and Frequency of Service: The Contractor shall provide Containerized Residential Recycling Service to Dwelling Units as are designated by the Authority that are located in the Service Area. Containerized Residential Recycling Service shall be provided at least once every week on a scheduled route basis as set out in paragraph 2 below, and up to twice a week as necessary during Peak Times of the year.

2. Accessibility and Schedule for Containerized Residential Recycling Collection: All Recovered Materials, with the exception of cardboard, are to be collected in a Recycling Container or Container designated for Recovered Materials which shall be located in such location and shall be collected on a schedule as mutually agreed to by the owner or governing association (of the multiple unit residential complex or development being serviced) and the Contractor that will provide safe and efficient access for the Contractor's collection crew and vehicle. Cardboard shall be collected if placed next to, or inside, the Recycling Container or Container. If there is a large amount of cardboard placed outside of the Container (i.e., in the case of a 101 gallon Container), an alternate, larger Container shall be provided, upon agreement by the customer and the Authority. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pick-up, and such designation shall be final.

C. Commercial Recycling Collection Services: The Contractor shall provide Commercial Recycling Collection Services on behalf of the Authority for any business in the Service Area where the Authority has arranged, negotiated or contracted for such service, and Contractor shall have the right to solicit Commercial Recycling Collection Service agreements with any business in the Service Area upon terms and conditions consistent with this Agreement.

1. Conditions and Frequency of Service: The Contractor shall provide Commercial Recycling Collection Services to all businesses or commercial entities located in the designated Service Area resulting from its own solicitation, by request of the customer, or where a contract meeting the terms and conditions of this Agreement is arranged by the Contract Administrator or his designee. The size and frequency of service of the Container designated for Recovered Materials shall be determined by a waste audit and agreed to by the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Recovered Materials need be placed outside the Container. Storage capacity shall be suitable for the amount of Recovered Materials generated by the customer. The Contractor shall provide Containers as necessary however, customers may own their Container provided that the customer is completely responsible for its proper maintenance. Such Containers shall be of a type that can be serviced by the Contractor's equipment.
Compactors may be obtained by customers from any source provided that such Compactor be of a type that can be serviced by the Contractor’s equipment and the customer shall be completely responsible for its proper maintenance. Compactor frequency of collection shall be sufficient to contain the Recovered Material without spillage. All Commercial Recovered Materials shall be placed in a Container, Compactor or other acceptable Recycling Container. All Containers and Compactors provided by the Contractor shall be in good condition, painted and neatly labeled with the Contractor’s name, phone number and size of Container. All Containers and Compactors provided by the Contractor shall be clearly labeled to indicate they hold Recovered Materials only.

Recovered Materials shall not be commingled with other solid waste. Contractor’s collection personnel shall not knowingly collect Recovered Materials and place them in a Solid Waste collection vehicle. Commingling of Recovered Materials with Solid Waste shall subject the Contractor to assessments as set forth in this Agreement. Recovered Materials set out for collection by customers must be collected in a vehicle designated solely for the purpose of collecting Recovered Materials and shall be delivered to a facility designated by the Authority. Said vehicle shall contain signage designating vehicle as such and include the Authority’s toll-free new bin telephone number (1-866-639-2467).

Where Recycling Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers shall be kept in a safe, accessible location agreed upon between the Contractor and the customer.

2. Level, Type and Disclosure of Rates for Commercial Recycling Collection and Other Services: The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement, the Contract Administrator, or his designee, at the election of the customer and Contractor may establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit B. The Contractor will be responsible for the billing and collection of Commercial Recycling Collection charges except as otherwise provided in this Agreement.

3. Ownership: Notwithstanding any other provision of this Agreement, a commercial generator of Recovered Materials retains ownership of those materials until he or she donates, sells, or contracts for the donation or sale of those materials to another person or entity. Nothing in this Agreement shall prevent a Recovered Materials dealer or other person or entity properly registered to engage in the Recovered Materials business in Palm Beach County, whether for profit or nonprofit, from accepting and transporting commercially generated, Source Separated Recovered Materials from such commercial generator, provided however, that such activities are subject to applicable State and local laws, regulations and rules, including rules of the Authority, and provided that the transporter reports such information to the Authority in accordance with applicable State and local laws and rules, including rules of the Authority.
D. **Authority Public Drop-off Recycling Collection Services:** The Contractor shall provide Public Drop-off Recycling Collection Services to all Authority Public Drop-off Locations within the unincorporated and municipal areas of the Service Area at the approved Commercial Recycling Collection Service collection rate set out in Exhibit B as may be adjusted in accordance with Section 6 and Exhibit C. The Authority will provide the containers. The frequency of collection shall be sufficient to provide that no Recovered Materials need be placed outside the Container and shall be determined by the Authority. The Contract Administrator or his designee will establish the number of Containers to be collected and frequency of collection as defined in Exhibit F. The Authority has the right to add or remove up to five (5) containers annually and/or increase or decrease service as deemed necessary.

The Contractor shall provide the Contract Administrator, in a format acceptable to the Contract Administrator, the schedules for all Collection routes and keep such information current at all times. Public Drop-off Commercial Recycling Container collection sites located within 150 yards of residential uses shall only be collected between the hours of 7:00 a.m. and 5:00 p.m. Monday through Saturday.

The Contractor shall bring Recovered Materials collected from the Public Drop-off locations to the Authority owned Recovered Materials Processing Facility or an Authority transfer station. Authority owned Public Drop-off Recycling Collection Containers damaged by the Contractor shall be replaced at no charge to the Authority within three (3) Business Days.

E. **Method of Payment:** The Authority or its designee will be responsible for the billing and collection of payments for Residential Recycling Collection Service.

The Contractor shall be responsible for billing and collection of payments for Commercial Recycling Collection Service, not to exceed the rates as set out in Exhibit B. The rate set out in Exhibit B shall be adjusted in subsequent years in accordance with Section 6 and the Payment Adjustment Schedule (Exhibit C). The Authority shall provide recycling Containers for commercial customers utilizing a 95 or 101 gallon Container(s) at no charge to the Contractor or customer. The Contractor may be asked to bill the Authority or the customer for all or a part of the Containers used by the customer for Commercial Recycling Collection Service, at the rate set out in Exhibit B, as determined by the Contract Administrator.

F. **Hours of Collection:** Curbside Residential Recycling Collection Service shall be conducted between the hours of 6:00 a.m. and 5:00 p.m., Monday through Saturday, except as otherwise specified in Section 4.A.1. Dwelling Units receiving Containerized Residential Recycling Collection Service and non-residential collection sites located within 150 yards of residential uses shall only be collected between the hours of 7:00 a.m. and 5:00 p.m., Monday through Saturday. Other non-residential locations may be collected at any time. The hours of collection may be extended due to extraordinary circumstances or conditions with the prior consent of the Contract Administrator.

G. **Routes and Schedules:** Route and schedule changes shall be handled as specified in Section 4, Paragraph F.
H. Replacement of Recycling Containers for Residential Dwelling Units:

1. The Contractor will replace at its expense any Container or Recycling Container damaged through the fault or negligence of the Contractor or its personnel (including agents, employees or subcontractors) in accordance with Section 10, and report all such replacements to the Authority. Such replacement Recycling Containers or Containers designated for Recycling for Residential Dwelling Units will be provided by the Authority with the cost for replacement containers deducted from the Contractor's monthly fees.

2. The Authority, at its expense, will supply to the Contractor, for distribution to the customer, replacement Recycling Containers or Containers which were originally provided by the Authority and lost or damaged by the occupant of a Dwelling Unit, and the Contractor shall report all such replacements to the Authority.

3. The Contractor shall promptly deliver Recycling Containers or Containers as requested by the Authority on behalf of the residential customers for the purpose of excess Recovered Materials or for new residential customers.

I. Contaminated Recovered Materials: In the event the curbside customer places Solid Waste in the Recycling Container(s) or Container(s), the Contractor must place a contamination sticker on the Recycling Container(s) or Container(s) advising the customer of the reason for non-collection. Contamination stickers will be provided to the Contractor by the Authority. In the event the curbside customer places fiber and commingle material mixed together in either container, Contractor may leave the material but must place a contamination sticker on the container(s) advising the customer of the reason for non-collection.

In the event the Contractor is unaware that a load of Recovered Materials collected pursuant to Residential Containerized Recycling Collection or Commercial Recycling Collection is commingled with Solid Waste, and the Contractor is charged a disposal fee by the Authority, the Contractor is authorized to make an effort to identify the customer responsible for the contamination and charge the customer the applicable disposal charges based on the size of the container serviced for that customer.

J. Recovered Materials Processing Facility: The Contractor shall deliver all Recovered Materials collected pursuant to this Agreement from the Service Area to the Solid Waste Authority RMPF, or a SWA transfer station or other facility designated, in writing, by the Contract Administrator.

K. Change in Scope of Recycling Collection Service: From time to time, at the sole option of the Authority, it may be necessary to modify the scope of Recovered Materials that will be included in Recycling Collection Service. Should this occur, the Authority and the Contractor agree to enter into good faith negotiations to amend this Agreement to reflect the impact of any such modification.
6. CHARGES, RATES AND LEVEL OF SERVICES:

A. Solid Waste and Recycling Collection Rate Adjustments: For all Collection services with the exception of those specifically excluded, the charges shall be initially based on the rates established in Exhibit B, and as subsequently adjusted pursuant to this Agreement. For all cost components other than fuel, the Contractor shall receive an annual adjustment in the Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service, and Commercial Solid Waste Collection Service and Residential Recycling Collection Service rates. At the end of the first year of this Agreement, and each year thereafter, the adjustment shall be made as set out in Exhibit C.

Additionally, for Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service and Commercial Solid Waste Collection Service the Contractor shall receive a biannual fuel price adjustment for the fuel cost component as set out in Exhibit C.

No change in rates except for the Payment Schedule adjustment as provided by this Agreement shall be made without the approval of the Authority Board. Annual rate adjustments shall be effective the following October 1, unless otherwise mutually determined by the Authority and the Contractor.

B. Billing, Collection, and Payments:

1. The Authority will be responsible for the billing and collection of payments for those units included in the Authority’s mandatory Residential Solid Waste Collection Services and the Residential Recycling Collection Services programs. The Authority shall make monthly payments in arrears to the Contractor for the Residential Solid Waste Collection Service and Residential Recycling Collection Services provided pursuant to this Contract. The Contractor shall be entitled to payment for services rendered irrespective of whether or not the Authority collects from customers for such service. Payments from the Authority to the Contractor will be due and paid no later than the tenth day of the month following the month during which services were rendered.

On or before October 1, and before commencement of work by the Contractor under the terms of this Agreement, the Authority shall provide to the Contractor the estimated total number of units to be serviced. By November 1 of each Fiscal Year, the Authority shall provide to the Contractor a copy of the annual assessment roll providing a detailed listing of all the units to receive these services. Thereafter and for the duration of this Agreement, the Authority shall promptly notify the Contractor of new residential units to be served and/or deleted and payments will be adjusted accordingly. New Dwelling Units which are added for service during the Authority’s Fiscal Year will be added to the customer service list and payment will be paid by the Authority to the Contractor in the Contractor’s monthly payment. Payment will be prorated based upon the day of Certificate of Occupancy and verification of the beginning of actual service, whichever is later. The payments from the Authority to the Contractor for units added by Certificate of Occupancy are paid no later than the tenth day of the month, two months following the month during which the Dwelling Unit is provided a
Certificate of Occupancy. After the first year of the Agreement, the Dwelling Unit becomes part of the total number of the subsequent year’s total number of units, provided annually to the Contractor on or before October 1.

2. In the event the Contractor provides service to Dwelling Units whose parcel was not included on the annual assessment roll provided by the Authority, the Contractor must provide a written list of such Dwelling Units to the Contract Administrator within 90 days receipt of the assessment roll. Upon receipt of such written list by the Authority, the Contract Administrator will verify the customer address and that service to the unit is proper within 30 days, and if proper, shall remit monthly payments to the Contractor for such service effective as of October 1 of that Fiscal Year or the date service began, whichever is later. If the Authority has not received notification within 90 days by the Contractor, no adjustments to payment will be made until the next Fiscal Year annual roll is certified for the same units. However, the Authority reserves the right to correct any errors of omission or commission per the laws and rules that govern the Authority. In the event the Authority pays the Contractor for a residential unit in error for whatever reason, the Contractor shall notify the Contract Administrator. Upon determination of any overpayment, the Contract Administrator will verify the error and make appropriate adjustment to the Contractor's payment to correct the error.

C. Solid Waste Disposal Costs: Collection service costs and Solid Waste disposal costs shall be treated separately for the Solid Waste Collection services being provided pursuant to this Contract. Residential and commercial Solid Waste disposal costs shall be separated from residential and commercial collection service costs as shown in Exhibit B. Residential disposal costs will be part of the special assessment billed by the Authority except as otherwise provided in this Agreement. The Contractor will be given a disposal credit for each residential unit as calculated in Exhibit B. The non-assessed portion of the commercial disposal costs will be part of the service charge billed by the Contractor. The Contractor shall pay the Authority for all Solid Waste disposal costs incurred for disposing of all Solid Waste at the Authority's Disposal Facilities except for the portion of disposal costs which have been separately credited by the Authority.

D. Extraordinary Rate Adjustment: The Contractor may petition the Authority at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the cost of operations that could not reasonably be foreseen by a prudent operator. The Contractor's request shall contain substantial proof and justification, as determined by the Contract Administrator, to support the need for the rate adjustment. The Authority may request from the Contractor, and the Contractor shall provide, such further information as may be reasonably necessary in making its determination. The Authority Board, in its sole discretion, may approve or deny the request, in whole or in part, within 120 days of receipt of the request and all other additional information required by the Authority.

E. Franchise Fee: To compensate the Authority for the cost of administration, supervision and inspection rendered for the effective performance of this Agreement, as well as other costs related to Collection, the Contractor shall pay to the Authority a fee of three percent (3%) of all gross revenues charged for services or operations conducted in the Service Area in accordance with Exhibit E. Solid Waste disposal costs paid by the Contractor to the Authority under this
Agreement shall be deducted from the gross revenue total prior to calculation of the franchise fee due to the Authority. Franchise fees shall be payable within forty-five (45) days of the last day of each calendar quarter. A late charge of 1.5% of the monies due for the Franchise fee shall be calculated monthly until payment is received. Misrepresentation of revenues by Contractor shall result in the following: 1) Contractor must pay the Authority the calculated difference determined from the misrepresentation within five (5) Business Days; 2) Contractor must pay an additional 20% assessment based on the misrepresented amount; 3) Contractor shall submit a Certified Financial Statement on a quarterly basis for the remainder of the Agreement. Such Certified Financial Statement must include the opinion of a Florida Certified Public Accountant who has conducted an audit of the Contractor’s books and records in accordance with generally accepted auditing standards which include tests and other procedures necessary, that the Financial Statements are fairly presented, in all material respects, in conformity with generally accepted accounting practices.

F. **Exclusive Franchise:** Authority agrees to assist the Contractor in taking timely action against any entity violating, and/or in defense of, the Contractor’s exclusive franchise rights granted under this Agreement.

7. **HOLIDAYS:** The Contractor shall not be required to perform Collection on Thanksgiving Day and Christmas Day. Residential Solid Waste, Recovered Material and Vegetative Waste not collected from curbside service customers on Thanksgiving Day and Christmas Day shall be collected on the next scheduled service day. Residential Solid Waste and residential Recovered Material not collected from container service customers shall be collected on the next Business Day. The Contractor shall not be required to maintain office hours on Thanksgiving Day and Christmas Day. However, on all holidays except Thanksgiving Day and Christmas Day, the Contractor shall provide collection of Commercial Solid Waste, Commercial Recovered Material, Residential Solid Waste, Vegetative Waste and Residential Recovered Material and provide for operations personnel to accept calls from the Authority and the Contractor’s customers.

8. **SPECIAL SERVICES:** Rates charged for Special Services may not exceed the special service rates as listed in Exhibit B. In the event the requested special service is not included within Exhibit B, the Contractor may negotiate with the customer for the rate. Upon failure of the parties to reach an agreement on the rate, the Contract Administrator shall establish the rate. The Contractor shall be responsible for billing and collection of payment for all Special Services.

9. **PUBLIC AWARENESS PROGRAM:** The Contractor shall assist the Authority with the Public Awareness Program by distributing door hangers, stickers, flyers or other medium to residential and commercial customers as requested by the Authority. Additionally it is the Contractor’s responsibility to provide information about those customers who repeatedly do not prepare or set out their Recovered Material or solid waste as specified within this Contract to the Authority.

The Commercial Recycling customer will also be notified, by the Authority through the Contractor, about special commercial recycling events, workshops, educational forums and symposiums and other activities, as needed.

10. **TREATMENT OF CONTAINERS:** The Contractor shall collect Residential Solid Waste, Vegetative Waste and Recovered Materials and Commercial Solid Waste and Recovered Materials with as little disturbance as possible and shall leave any receptacle at the same point it was collected. Unless
otherwise specified in this Agreement, any Cart, Vegetative Container, Container, Compactor or Recycling Container requiring repair, replacement or delivery for whatever reason shall be repaired and/or replaced or delivered within five (5) Business Days of the request of the customer or the Authority. Unless otherwise specified in the Agreement, any Cart, Vegetative Container, Container, Compactor or Recycling Container damaged by the Contractor or reported in poor condition by the customer or the Authority shall be repaired or replaced at the Contractor’s expense. Unless otherwise specified in the Agreement, for Recycling Containers provided to the Contractor by the Authority, the cost of Recycling Containers provided to replace those damaged by the Contractor or reported in poor condition by the customer or the Authority shall be deducted from the Contractor’s monthly fees. The Contractor shall neatly re-place the Cart, Container, Recycling Container and Vegetative Container to the point of collection.

11. PERSONNEL OF THE CONTRACTOR:

A. The Contractor shall assign a qualified person or persons to be in charge of the operations within the service area and shall give the name(s), office and cellular telephone numbers and, if applicable, email address of the person(s) to the Contract Administrator.

B. Supervisory personnel must be present to direct operations on all routes in a safe and satisfactory manner. All supervisory personnel shall operate a non-collection vehicle that is clearly marked with Contractor’s name and office telephone number.

C. Contractor shall provide personnel sufficient to complete all routes. Supervisory personnel may temporarily operate collection vehicles in an emergency situation.

D. The Contractor shall keep all contact information provided to the Authority current at all times.

E. The Contractor's collection employees shall wear a uniform or shirt bearing the company's name during operations.

F. The Contractor’s name and office telephone number shall be properly displayed on all Solid Waste and Recycling Collection Vehicles and Containers provided by the Contractor. All vehicles utilized for the collection of Recovered Materials shall be clearly identified for that purpose.

G. The Contractor shall provide operating and safety training for all personnel.

H. The Contractor’s employees shall treat all customers in a polite and courteous manner.

I. The Contractor shall provide emergency contact name(s), office, home and cellular telephone numbers and email address for all key personnel.

J. In the event of a dispute between customer and Contractor, key personnel of the Contractor shall be available to meet with Contract Administrator or his designee as requested by the Authority.

K. Any employee of the Contractor who removes or diverts Solid Waste or Recovered Materials from the Authority’s system without authorization shall be prohibited from providing Solid Waste or Recovered Materials Collection services under this Agreement.
12. **SPILLAGE:** The Contractor shall not litter or cause any spillage to occur upon the premises, roadway or the right-of-way wherein the collection shall occur. During hauling, all Solid Waste, Vegetative Waste and Recovered Materials shall be contained, tied, or enclosed so that leaking, spilling and blowing is prevented. In the event of any spillage or leakage, including but not limited to, hydraulic and other fluids from the collection vehicle or materials such as paint, by the Contractor, for any reason or source, the Contractor shall clean up all spillage and leakage at no cost to the Authority or the customer within two (2) Business Days unless otherwise specified within this Agreement.

13. **SOLID WASTE AND RECOVERED MATERIALS PROCESSING FACILITIES:** All Residential Solid Waste, Vegetative Waste, and Recovered Material, and all Commercial Solid Waste and Recovered Material collected by the Contractor in the Service Area(s) pursuant to this Agreement shall be hauled to a Designated Facility. For all Service Areas the Contractor is free to use any suitable Designated Facility.

The Contract Administrator may specify in writing facilities not owned by the Authority as Designated Facilities. These facilities are supplemental to the facilities owned by the Authority. The Authority does not guarantee the continued availability of facilities not owned by the Authority. In the event a Designated Facility not owned by the Authority is unavailable, closes, or has its Designated Facility status revoked, Contractor shall use an alternate Designated Facility at no charge to the Authority.

Facilities managed and operated by the Authority, are periodically closed for maintenance an average of 30 Business Days every five (5) years. In the event a Designated Facility is closed, the Contractor shall take the Solid Waste, Vegetative Waste and Recovered Materials to another Designated Facility at no charge to the Authority, except as limited herein.

In the event an Authority owned Designated Facility closes more than 30 Business Days in a five (5) year period, for all routes in any Service Area, Contractor shall receive additional compensation for the additional travel time to an alternate Designated Facility. Contractor's rates shall be increased to 1.08 times the rate set out in Exhibit B, as adjusted by Exhibit C, if applicable, for each Business Day the Authority-owned Designated Facility is closed in excess of thirty (30) Business Days and for each type of waste or Recovered Material for which acceptance is unavailable.

Unless otherwise specified in this Agreement, in the event that a load of Recovered Materials collected pursuant to Curbside Residential Recycling Collection Service or Containerized Residential Recycling Collection Service delivered to the Designated Facility contains more than 10%, by volume of the total load, material which is not Recovered Material or that there is more than 5% fiber products within the commingled Recovered Material or 5% commingled Recovered Material by volume within a load of fiber, the Authority has the right to reject the load and to charge the Contractor the full disposal fee for each ton within the load.

Unless otherwise specified in this Agreement, in the event that a load of Recovered Materials collected pursuant to Commercial Recycling Collection Service delivered to the Designated Facility contains more than 10% by weight or volume of the total load of solid waste, trash or commingle within a load of paper products, the Authority has the right to reject the load and to charge Contractor the full disposal fee for each ton within the load. The Contractor may pass this cost through to a commercial customer in the event that the Contractor can prove that the customer caused the contamination to the
satisfaction of the customer. It is the responsibility of the Contractor to notify the Authority of any customer who has repeatedly contaminated the Recovered Materials.

The Authority currently operates a Dual Stream recycling program for both residential and commercial Recovered Materials. If at any time during the term of this Agreement the Authority begins to accept Single Stream Commercial Recovered Materials, the Authority reserves the right to designate a specific subset of facilities for the receipt and pre-processing of the material. The Authority shall designate at least one facility in each Service Area. In the event the Authority fails to designate at least one facility in a Service Area(s), Contractor's rates for Commercial Recycling Collection for those accounts receiving Single Stream Commercial Recovered Material Collection service shall be increased to 1.08 times the rate set out in Exhibit B, as adjusted by Exhibit C, if applicable, for each Business Day no such designated facility is provided in the Service Area(s).

14. COLLECTION EQUIPMENT: The Contractor shall have on hand at all times and in good working order such equipment as shall permit the Contractor to safely, adequately and efficiently perform the contractual duties specified in this Agreement. Upon execution of this Agreement and semi-annually thereafter, the Contractor shall provide in a format specified by the Contract Administrator a list of the equipment, both dedicated and reserve, to be used by the Contractor to provide each type of collection service relating to this Agreement. Solid Waste collection equipment shall be of the enclosed loader packer type, or other equipment that meets industry standards and is approved by the Contract Administrator, unless otherwise provided within this Agreement. All Equipment shall be kept in good repair, appearance and in a sanitary, clean condition at all times. Recovered Materials collection equipment shall be the McNeilus or Heil split body rear loader (one compartment for paper products; one compartment for other Recovered Material), and must be compatible for unloading at the designated RMPF or transfer station. In the event a compacting vehicle is used for the collection of Recovered Materials, compaction pressure may not exceed 50 pounds per square inch for the commingled non-paper Recovered Materials to avoid glass breakage. Equipment utilized for the collection of Recovered Materials shall be clearly identified for that purpose. The Contractor shall have available reserve equipment which can be put into service within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the Contractor to perform the contractual duties. Contractor shall notify the Contract Administrator or his designee by phone within two hours of any equipment breakdown. If the public road or public right-of-way in the Service Area is substandard, as specifically designated by the Contract Administrator, in writing, the Contractor must provide lightweight equipment to service these roads.

15. VEGETATIVE WASTE: All Vegetative Waste shall be collected separately from Residential Solid Waste and Recovered Materials. Contractor is not required to collect debris generated by Land Clearing activity which includes, but is not limited to, stumps, tree trunks and logs.

16. SPECIAL WASTE, HAZARDOUS WASTE, BIOHAZARDOUS OR BIOMEDICAL WASTE AND SLUDGE: The Contractor shall not be required to collect and dispose of Special Waste.

17. OFFICE AND EQUIPMENT YARD: The Contractor shall maintain an office within Palm Beach County where complaints from the Authority and commercial customer inquiries shall be received. It shall be equipped with sufficient telephones, with no less than two phone lines, and shall be open during normal business hours and shall have local customer service and sales representatives sufficient to provide adequate phone coverage and assistance to customers within their own Service Area(s) from 8:00 a.m.
to 5:00 p.m., Monday through Saturday, with the exception of Thanksgiving Day and Christmas Day. The Contractor shall provide a dedicated email address and computer with internet access to receive complaints from the Authority. The contractor must have a fax machine and dedicated fax line to be utilized in the event of a computer system malfunction. The Contractor shall provide an answering machine during non-office hours for customer requests and questions to be responded to during the following Business Day. The Contractor shall provide a contact person for the Authority to reach during all non-office hours. The contact person must have the ability to authorize Contractor operation in the case of Authority direction or situations requiring immediate attention. An equipment yard must be established no later than September 1, 2019. Failure to establish an office and equipment yard may result in loss of franchise. Equipment yard means a real property location that shall be utilized by the Contractor for the storage and keeping of all equipment needed by the Contractor to provide all services under this Agreement.

18. COMPLAINTS: All service complaints shall be directed to the Contract Administrator, or his designee. The complaint will be forwarded to the Contractor by telephone, computer or electronic media not less than twice daily where it shall be recorded on a complaint log by the Contractor. The complaint shall be resolved no later than 12:00 noon the next Business Day after it is received by the Contractor. When the complaint is received on a Saturday or the day preceding Thanksgiving Day and Christmas Day, it shall be resolved by the Contractor no later than 12:00 noon the next business day.

When the Contract Administrator or his designee notifies the Contractor of a complaint, the Contractor shall take the appropriate steps that may be necessary to resolve the complaint by 12:00 noon on the next Business Day after its receipt. If a complaint cannot be resolved by 12:00 noon on the next Business Day following the scheduled Collection day, the Contract Administrator shall be notified in writing of reason for non-resolution of the complaint.

Non-conforming Solid Waste, Recovered Materials and Vegetative Waste not properly tagged by the Contractor shall be collected by the Contractor by 12:00 noon on the next Business Day following the scheduled Collection day. Complaints of sloppy service provided by Contractor, including, but not limited to Solid Waste, Recovered Materials or Vegetative Waste being left in the roadway or Carts and Vegetative Containers not being returned to point of collection on the scheduled Collection day shall be resolved by 5:00 p.m. on the same day.

The Contractor shall investigate and provide the Contract Administrator or his designee with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of actions of the Contractor’s employees, agent, or sub-contractors within 24 hours of receipt. The Contract Administrator will consider all documentation provided and make final determination of party responsibility. If the Contractor fails to provide a written explanation of the disposition of such complaints within 24 hours of receipt, determination of responsibility shall be in favor of the customer and Contractor shall be held liable for all necessary repairs. Any damage shall be repaired within five (5) Business Days, with the exception of mailboxes and Carts, which shall be repaired or replaced within three (3) Business Days. In the case of an unresolved dispute, the Contract Administrator’s or his designee’s decision shall be final.
19. **QUALITY OF PERFORMANCE OF CONTRACTOR:** It is the intent of this Agreement to ensure that the Contractor provides high quality services. The following constitute violations of this Agreement that have negative impacts on the Authority and the public, the costs of which are not reasonably quantifiable, and are subject to liquidated damages and potentially loss of Franchise. The parties readily acknowledge that given the nature of the subject matter and performance required under this Agreement, the actual amount of damages, if any, that may be assessed is not able to be determined at the time of execution of this Agreement.

A. **Complaints:** All complaints received by the Contract Administrator, or his designee, and reported to the Contractor shall be promptly resolved pursuant to the provisions of Section 18 of this Agreement. Complaints shall not include customer informational requests or Recycling Container requests. A complaint not resolved by 12:00 noon on the next Business Day, unless otherwise provided in this Agreement, shall count as two complaints. In the event complaints received from curbside customers exceed the following annual or monthly allowable complaint(s), the Contract Administrator shall impose as liquidated damages the amount of $200.00 per incident to reimburse the Authority for the cost of receiving, logging, investigating, and following up on the complaint.

<table>
<thead>
<tr>
<th>Complaint Type</th>
<th>Area 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garbage, Trash and Damage</td>
<td>30</td>
</tr>
<tr>
<td>Recycling</td>
<td>20</td>
</tr>
<tr>
<td>Vegetation</td>
<td>40</td>
</tr>
</tbody>
</table>

B. **Other Administrative Charges:** In addition to the liquidated damages provided for in Subsection 19.A related to customer complaints, the Contract Administrator may, without regard to the percentage of customer complaints, also impose liquidated damages at the rate of $200.00 per day per incident for any other infraction of this Agreement to reimburse the Authority for the cost of receiving, logging, investigating and following up on the complaint and or failure to perform, and additional costs that cannot be reasonably quantified. Such infractions include but are not limited to:

1. Failure to provide clean, safe, sanitary equipment;
2. Failure to maintain office hours as required;
3. Failure to provide documents and reports in a timely and accurate manner;
4. Failure to repair or replace and/or deliver a Container, Compactor, Recycling Container, Cart, Vegetative Container or mailbox within the required time period;
5. Failure to clean spillage other than the clean-up required by the Palm Beach County Health Department, as provided in Section 19.C.7 below;
6. Failure to cover and or secure materials on collection vehicles;
7. Collection employees out of uniform;
8. Name and phone number, and if applicable, size not displayed on Collection vehicles or Containers;
9. Failure to provide schedule and route maps;
10. Using an improper truck for the specific service provided;
11. Failure to submit a disclosure notice to either a customer or the Contract Administrator;
12. Failure to report recycling activity monthly (on or before the 10th day of the following month), in the format determined by the Authority, for the purpose of tracking and verifying countywide recycling activity;
13. Failure to collect Recovered Materials, Solid Waste or Vegetative Waste on schedule for any customer who has been missed more than three times within a 12 month period;
14. Failure to respond to customer calls, including all residential and commercial customers, in a timely and appropriate manner;
15. Failure to place a contamination sticker in Recycling Containers, as required;
16. Failure to repair damage to property resulting from Contractor’s (including agents, employees or subcontractors) equipment failure or negligence within five (5) Business Days;
17. Failure to return calls to the Authority in a timely manner;
18. Failure to provide a supervisor on routes to direct operations in a safe and satisfactory manner;
19. Failure to remove Vegetative Waste tagged in accordance with Section 4.A.1 within 72 hours will result in a $200.00 liquidated damage assessment each day until Vegetative Waste is removed.

C. **Major Prohibitions and Liquidated Damages:** The following constitute serious violations of this Agreement that have negative impacts on the Authority and the public, the costs of which are not reasonably quantifiable, and are subject to liquidated damages and potentially loss of Franchise. The parties readily acknowledge that given the nature of the subject matter and performance required under this Agreement, the actual amount of damages, if any, that may be assessed is not able to be determined at the time of execution of this Agreement.

1. Mobilization and Preparation: Prior to the commencement of the term of this franchise Agreement, the Contractor shall prepare for the collection services in the Service Area in a responsible manner and, at a minimum, shall adhere to the requirements as set out in Exhibit G. In the event the Contractor fails to meet the deadlines of any one of the tasks outlined in Exhibit G, the Authority has the right to assess and collect liquidated damages in accordance with Section 19.C.1. Failure to meet the deadline of more than two tasks may lead to loss of the exclusive franchise for each Service Area.

2. Failure to meet the requirements in accordance with Section 48 will result in a $10,000 liquidated damage assessment for each task deadline missed to compensate the Authority for costs, including additional supervision, associated with assisting the Contractor in getting back on schedule.

3. Intentionally commingling Solid Waste, Vegetative Waste and/or Recovered Materials (including commingling recovered fiber with recovered commingle material, or recovered dual stream material with recovered single stream material in the event that the Authority authorizes single stream Commercial Recycling Collection Service) is prohibited and may result in liquidated damages in the amount of $5,000.00 per incident to reimburse the Authority for the cost of inspecting, sorting, handling and disposing of the contaminated load, and the costs associated with potential injury to employees and workers who are exposed to said contamination, and upon the fifth offense may constitute default of contract and result in loss of Franchise.
4. Changing routes, including the starting point of a route without approval from the Authority or notification to the Authority and the customer is prohibited and will result in liquidated damages of $2,000.00 per incident to reimburse the Authority for the costs of managing the service disruption, including the cost of receiving, logging, investigating and following up on customer complaints, communicating with the Contractor and coordinating the return to normal service. Additionally, the Contractor shall be required to return to the previous route(s) and schedule and properly notify customers in accordance with the requirements of this Agreement at no cost to the Authority or customer.

5. Billing commercial customers service charges unauthorized by this Agreement, such as special fuel surcharges, handling charges or billing charges, is prohibited and will result in the assessment of liquidated damages in the amount of $500 per incident to compensate the Authority for the cost of receiving, logging, investigating and following up on customer complaints, communicating with the Contractor and the customer, and coordinating the reimbursement to the customer for all non-approved charges. Contractor shall also be required to reimburse the customer for all non-approved charges paid by the customer.

6. Violating the exclusive Franchise in another contractor’s Service Area without approval from the Authority is prohibited and will result in the assessment of liquidated damages of $5,000.00 per incident to compensate the Authority for managerial and investigative costs associated with defending and reinstating the exclusive Franchise rights of the Authority’s franchisee, in addition to reasonable attorney’s fees incurred by the Authority. Additionally, Contractor will be required to pay restitution to the offended contractor in an amount equal to the contractor’s lost collection charges at the rate per cubic yard, or pull, whichever is applicable, as of the time of the infraction for every cubic yard, or pull.

7. Failure to clean up spillage of any substance required to be cleaned up by and in accordance with the Palm Beach County Health Department will result in the assessment of liquidated damages in the amount of $2,500.00 per day, per incident to compensate the Authority for the cost of receiving, logging, investigating and following up on customer complaints, assessing the extent of the damage, and communicating with the Contractor, the Health Department and the customer(s). Additionally, in the event of such failure to clean up spillage, the Authority retains the right to perform or contract for the performance of such clean-up and assess the Contractor for all costs incurred.

8. The Contractor, providing Collection service on behalf of the Authority, excepting as provided for in Section 5, is required to deliver all Commercial and Residential Solid Waste, Vegetative Waste and Recovered Materials collected pursuant to this Agreement to disposal facilities and/or Recovered Materials Processing Facilities, designated by the Authority. Diversion of these materials to any facility not designated by the Authority without the written consent of the Contract Administrator, whether within or outside Palm Beach County, is prohibited and will result in the following assessments:

The first offense will result in the assessment of liquidated damages in the amount of $100,000.00 to compensate the Authority for the investigative and legal costs and expenses incurred to ascertain and quantify the extent of the violation. Additionally, in the case of Solid Waste, the Contractor shall reimburse the Authority for lost revenue based on the per
ton tipping fee for garbage in effect at the time of the offense for each ton of material diverted, plus reimbursement for lost energy revenues, if any. In the case of Recovered Material, in addition to liquidated damages, the Contractor shall reimburse the Authority for lost net revenue based solely on the then current average commodity value as determined by Authority sales and the then current incremental processing cost paid by the Authority for processing at the Authority-owned Recovered Materials Processing Facility.

The second offense may result in loss of franchise(s) and a ten (10) year ban on the ability to bid on future Solid Waste Authority of Palm Beach County Solid Waste and Recycling Collection Services.

Provided that the Contractor provides timely notification to the Authority, and notwithstanding the above, the parties agree that it is not the intent of this subsection to punish the Contractor, beyond the payment of restitution, for the random, infrequent or inadvertent actions of an employee, acting in a manner other than as directed by the Contractor, that result in the diversion of materials from an Authority approved facility.

The unauthorized diversion of Solid Waste and/or Recovered Materials from the Authority system, in addition to being a violation of this Agreement, is prohibited by Solid Waste Authority Rule 5, regulating Solid Waste Collection and Disposal, and Rule 6, regulating Recovered Materials Collection and Processing. To the extent allowed by law, the imposition of the above liquidated damages is in addition to any fines or penalties that may arise out of any proceeding, criminal or civil, for violations of the Palm Beach County Solid Waste Act (Ch. 2001-331), any Authority rule, or any other Federal, State, or local act, ordinance, resolution or rule.

9. Failure to complete a route or community on the regular scheduled pick-up day shall result in the assessment of liquidated damages in the amount of $2,000.00 for each route/community per day not completed to reimburse the Authority for the value of services not rendered, costs of managing the service disruption, including the cost of receiving, logging, investigating and following up on customer complaints, communicating with the Contractor and coordinating the return to normal service. Each missed route/community shall be completed by 10:00 a.m. of the next Business Day following regular scheduled collection day. Failure to collect missed routes/communities by 10:00 a.m. the next Business Day as required will result in an additional $2,000.00 assessment for each route/community not completed.

10. Failure to make a Good Faith Effort to utilize the services of the subcontractors and suppliers listed in the Contractor’s Subcontractor/Supplier Utilization Plan in the manner and in the amounts specified therein shall result in the imposition of Liquidated Damages in an amount up to the difference between the dollar amounts specified in the Subcontractor/Supplier Utilization Plan and the amount actually spent.

11. Further, failure to make a Good Faith Effort to achieve the S/MWBE goal shall be considered by the Authority as a Material Breach of the Agreement, and further, shall constitute a Default of Contract subject to the provisions of Section 29 and shall be cause for debarment in accordance with the Authority’s Purchasing Manual, Section 11, paragraphs D or E and
Section 29 of this Agreement. For the purpose of this section, and notwithstanding anything to the contrary in the Purchasing Manual or herein, such action shall only be imposed by the Governing Board of the Solid Waste Authority and only subsequent to a public hearing before the Board during which hearing the Contractor shall have the opportunity to present facts and evidence in its defense.

For the purpose of this Section, the Contract Administrator may deduct any charges from payments due or to become due to the Contractor. In the event the Contractor fails to repair damages as a result of the Contractor’s equipment failure or negligence within the time provided within this Agreement, the Contract Administrator may arrange for the repairs and assess the Contractor for the cost of the repairs and any applicable administrative charges. The Contract Administrator may assess administrative charges and liquidated damages pursuant to this Section on a monthly basis in connection with this Agreement and shall at the end of each month during the term of this Agreement notify the Contractor in writing of the charges assessed and the basis for each assessment. In the event the Contractor wishes to contest such assessment it shall, within five (5) Business Days after receiving such monthly notice, request in writing an opportunity to be heard by the Authority Board and present its defense to such assessment.

The Authority shall notify the Contractor in writing of any action taken with respect to Contractor's claims and the decision of the Authority Board will be final. Any aggrieved party that wishes to appeal may apply in the Circuit Court of Palm Beach County, Florida, within thirty (30) days of the rendition of such decision in accordance with the applicable Florida Appellate Rules.

D. **Filing of Requested Information and Documents:**

1. In addition to any other requirements of this Agreement, the Contractor shall be required to file pertinent statistical and aggregate cost information pertaining to residential and commercial Solid Waste and Recovered Materials Collection services that is requested by the Authority. All Solid Waste (including Vegetative Waste) and Recovered Materials tonnage collected by the Contractor in the Service Area during each month, whether residential or commercial, shall be reported accurately to the Authority, in a format and with such dates as specified by the Authority, on or before the 10th day of the following month.

2. The Contractor shall file and keep current with the Authority all documents and reports required by this Agreement. By September 1st of each year this Agreement is in effect, the Contractor shall ensure and certify to the Authority, in a format acceptable to the Contract Administrator, that all required documents are current and on file with the Authority.

3. The Contractor shall provide the Authority on a quarterly basis a list of all commercial customers and containerized residential customers within the Service Area. The list shall include at a minimum the customer name, customer contact person, customer contact telephone number, service address, compactor or container size, level of service and monthly invoice amount.

4. Failure to file any document or report within three (3) Business Days of the required filing date, except where granted an extension by the Contract Administrator, may result in the assessment of liquidated damages as authorized pursuant to this Section 19.B.
20. **NATURAL DISASTERS:** In the event of a hurricane, tornado, major storm or other natural disaster, the Contractor's sole responsibility shall be to reestablish regular routes and schedules for the collection of Solid Waste, Recovered Materials, and Vegetative Waste as soon after the natural disaster as possible. The collection and disposal of Solid Waste shall be the highest priority. The collection and disposal of debris generated by a natural disaster shall not be the responsibility of the Contractor. However the Authority and the Contractor may mutually agree to execute a temporary agreement under which the Contractor will collect debris generated by a natural disaster. Contractor shall have a reasonable expectation that under a separate agreement or agreements, the Authority will procure collection and disposal services for debris generated by a natural disaster. The Contractor agrees to provide full cooperation with the Authority and the debris collection contractor in the aftermath of a natural disaster in an effort to return the county to its pre-disaster state, and resume normal collection services.

21. **FORCE MAJEURE:** Neither the Authority nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Force Majeure, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid.

Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by a Force Majeure event, give written notice to the other party describing the Force Majeure preventing continued performance of the obligations of this Agreement.

22. **PERMITS AND LICENSES:** The Contractor shall obtain, at their own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect throughout the Term of this Agreement. Any changes of the licenses or permits shall be reported to the Authority within ten (10) Business Days of the change. Failure to obtain and maintain all permits and licenses, including but not limited to any permit or license which may in the future be required by the Authority to engage in the business of Collection in Palm Beach County, shall constitute an event of default.

23. **PERFORMANCE BOND:** The Contractor shall furnish to the Authority a performance bond executed by a surety company rated A- VII or higher by A.M. Best & Co., having a successful record of continuous operation, and licensed, admitted and authorized to do business in the State of Florida or a clean irrevocable letter of credit issued by a bank within Palm Beach County to ensure the faithful performance of this Agreement and all obligations arising hereunder in the appropriate amount determined in accordance with Exhibit D, attached. A clean, irrevocable letter of credit or bond, either of which meeting the requirements of this section, may be substituted for the other upon approval by the Authority. The form of this bond or letter of credit, and the Surety Company, shall be acceptable to Authority legal counsel and the Contract Administrator and shall be maintained during the term of this Agreement as provided in Section 1. The bond(s) shall be endorsed to show the Authority as obligee and it shall provide that bond(s) shall not be canceled, limited or non-renewed until after thirty (30) days’ notice has been given to the Authority. A current performance bond or letter of credit evidencing required coverage must be in force and on file at the Authority at all times.
24. **INSURANCE:**

A. **Worker's Compensation Insurance:** Worker's Compensation coverage must be maintained in accordance with statutory requirements as well as Employer's Liability Coverage in an amount not less than $100,000.00 per each accident, $100,000.00 by disease and $500,000.00 aggregate by disease.

B. **Liability Insurance:** The Contractor shall, during the term of this Agreement, and any extensions hereof maintain in full force and effect commercial general liability insurance policy and automobile liability insurance policy, which specifically covers all exposures incident to the Contractor's operations under this contract. Such insurance shall be with an insurance company with a current AM Best Rating of A- VII or better, and authorized to do business in the state of Florida and each policy shall be in an amount of not less than $1,000,000.00 Combined Single Limit for personal bodily injury, including death, and property damage liability and the general liability shall include but not be limited to coverage for Premises/Operations, Products/Completed Operations, Contractual, to support the Contractor's Agreement or indemnity and Fire Legal Liability. In addition to the above liability limits, the Contractor shall maintain $5,000,000.00 in umbrella and/or excess liability coverage. Policy(ies) shall be endorsed to show the Authority, a political subdivision of the State of Florida, as an additional insured as its interests may appear and shall also provide that insurance shall not be canceled, limited or non-renewed until after thirty (30) days' written notice has been given to the Authority. Current certificates of insurance evidencing required coverage must be on file with the Authority at all times. Contractor expressly understands and agrees that any insurance protection furnished by Contractor shall in no way limit its responsibility to indemnify and save harmless Authority under the provisions of Section 25 of this Agreement.

25. **INDEMNIFICATION:** The Contractor will indemnify, save and hold the Authority harmless from any and all liabilities, losses or damages the Authority may suffer as a result of claims, demands, costs or judgments against the Authority arising out of the acts or omission of the Contractor or its employees, which said liabilities, losses, damages, claims, demands, costs or judgment arise out of the matters which are the subject of this Agreement and the work to be performed thereby. The Contractor shall not be responsible for nor be required to indemnify or hold the Authority harmless for any act, omission, negligence or other liability to the extent caused by the act or omission of the Authority or any one of its employees or agents.

26. **ACCESS AND AUDITS:** The Contractor shall maintain within Palm Beach County adequate records of the solid waste collection and/or recycling services for every year of the Agreement and for five (5) years following the end of the term of this Agreement. Upon request, the Authority or its designee shall have the right to review all records maintained by the Contractor upon 48 hours written notice. In the event that the Authority exercises its right to review under this Section within the term of this Agreement or within the five (5) year period following the end of the term of this Agreement, Contractor must then continue to maintain all records until released by the Authority. If the Contractor fails to maintain records as required pursuant to this Section or infringes the Authority's right to review said records at any time during the period beginning on the date of execution of this Agreement and ending on the date five (5) years after the end of the term of this Agreement, or in the event the Authority has exercised its right to review, the date beyond the date five (5) years after the end of the term of this Agreement that the records are released by the Authority, the Authority will suffer damage, the amount
of which is difficult or impossible to ascertain. Therefore, as a consequence of the aforementioned failure, and in addition to the liquidated damages specifically provided for in this Agreement, the Contractor shall pay to the Authority, as liquidated damages, the sum of $1,000,000.

27. **POINT OF CONTACT:** All dealings, contacts, notices, and payments between the Contractor and the Authority shall be directed by the Contractor to the Contract Administrator or designee.

28. **NOTICE:** Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

   **AS TO THE AUTHORITY:**

   Solid Waste Authority of Palm Beach County  
   7501 North Jog Road  
   West Palm Beach, Florida 33412  
   Attention: Contract Administrator      Copy to: Executive Director

   **AS TO THE CONTRACTOR:**

   ___________________________  
   ___________________________  
   ___________________________
   Attention: __________________

   Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made from time to time by written notice. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next Business Day. The original of the notice must additionally be mailed as required herein.

29. **DEFAULT OF CONTRACT:**

   A. To the extent permitted by law, the Authority may cancel this Agreement, except as otherwise provided below in this section, by giving Contractor thirty (30) days advance written notice, to be served as hereafter provided, upon the happening of any one of the following events:

   1. Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or state of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

   2. By order or decree of a Court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60)
days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

3. By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Contractor, and such possession or control shall continue in effect for a period of sixty (60) days; or

4. The Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the Authority pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto, whether such default is considered minor or major, and said default is not cured within thirty (30) days of receipt of written notice by Authority to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by Contractor of written demand from Authority to do so, Contractor fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate [a] that the default cannot be cured within thirty [30] days, and [b] that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time).

B. However, notwithstanding anything contained herein to the contrary, failure of Contractor to provide collection service for a period of two (2) consecutive scheduled Business Days, the Authority may secure the Contractor's billing records (at the request of the Authority, the Contractor shall immediately provide such records). On the third Business Day, in order to provide interim collection services, the Authority may hire an alternate service provider until such time as the matter is resolved and the Contractor is again able to perform pursuant to this Agreement; provided, however, if the Contractor is unable for any reason or cause to resume performance at the end of thirty (30) Business Days all liability of the Authority under this Agreement to the Contractor shall cease and this Agreement may be deemed immediately terminated by the Authority. The cost to provide interim collection service, including all of the Authority’s costs, shall be at the Contractor’s expense, paid by the Authority and deducted from Contractor’s payment(s).

C. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Section, in the event that Contractor’s record of performance shows that Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor, in the opinion of Authority and regardless of whether Contractor has corrected each individual condition of default, Contractor may be deemed a “habitual violator”, shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively, shall constitute a condition of irredeemable default. The Authority shall thereupon issue Contractor final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, Authority
may terminate this Agreement upon the giving of written Final Notice to Contractor, such cancellation to be effective upon the fifteenth consecutive calendar day following the date of Final Notice, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and Contractor shall have no further rights hereunder. Immediately upon receipt of said Final Notice, Contractor shall proceed to cease any further performance under this Agreement. Contractor shall be deemed to have frequently, regularly or repeatedly defaulted in the event Authority has given Contractor default notice pursuant to Section 29(A)(4) three times in any one year time period or five times cumulatively during the term of this agreement.

D. In the event of any of the aforesaid events specified in paragraphs A, B, and C above and except as otherwise provided in said paragraphs, termination shall be effective upon the date specified in Authority's written notice to Contractor and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the Authority under this Agreement to the Contractor shall cease, and the Authority shall have the right to call the performance bond or letter of credit and shall be free to negotiate with other Contractors for the operation of the herein specified services. The Contractor shall reimburse the Authority for all direct and indirect costs of providing interim collection service incurred due to the Contractor's failure to perform.

E. AUTHORITY shall be in default ("AUTHORITY Default") under this Agreement if the AUTHORITY fails to observe or perform any of the covenants, conditions, or obligations imposed upon AUTHORITY hereunder, and such failure shall continue for a period of ninety (90) days after written notice from Contractor to AUTHORITY specifying AUTHORITY's default; provided, however, that if the nature of AUTHORITY's default is such that more than ninety (90) days are reasonably required for its cure, then AUTHORITY shall not be deemed to be in default if AUTHORITY commences such cure within such ninety (90) day period and thereafter diligently pursues such cure to completion. In the event of an Authority Default, Contractor and Authority shall attempt to negotiate a resolution of the AUTHORITY Default for a period not to exceed sixty (60) days from the later of: (i) the date that notice of the AUTHORITY Default is delivered to the AUTHORITY; or (ii) the end of any contractually provided cure period. In the event that the parties are unable to negotiate a resolution of the AUTHORITY Default and Contractor wishes to pursue the matter, Contractor shall have the right to seek specific performance of the terms of this Agreement. In the event Contractor seeks specific performance and is unable to obtain specific performance of this Agreement through no fault of Contractor, Contractor shall have the right to terminate this Agreement and/or pursue damages.

30. PUBLIC WELFARE: The Authority shall have the power to make changes in or to impose new and reasonable rules and regulations on the Contractor under this Agreement relative to the method of collection and disposal of Garbage, Trash, Bulk Trash, Vegetative Waste or Recovered Materials as shall from time to time be necessary and desirable for the public welfare. The Authority shall give the Contractor reasonable notice of any proposed change and an opportunity to be heard concerning those matters. The method of collection and disposal of Solid Waste and Recovered Materials set out herein shall also be liberally construed to include, but not be limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Contractor. The Contractor shall be reasonably and appropriately compensated as determined by negotiation and agreement between the Authority and the Contractor for any additional services or other obligations required of the Contractor due to any modification in the Agreement under this Section.
31. **RIGHT TO REQUIRE PERFORMANCE:** The failure of the Authority at any time to require performance by the Contractor of any provisions hereof shall in no way affect the right of the Authority thereafter to enforce the same. Nor shall waiver by the Authority of any breach of any provisions hereof be taken or held to be waived of any succeeding breach of such provisions or as a waiver of any provision itself.

32. **TITLE TO WASTE:** The Authority shall, at all times, hold title and ownership to all Commercial Solid Waste, Recovered Materials and Vegetative Waste and Residential Solid Waste, Vegetative Waste, and Recovered Materials and all other waste collected by the Contractor pursuant to this Agreement and the Contractor shall have no right to take, keep, process, alter, remove or otherwise dispose of any such materials without specific written authorization from the Contract Administrator.

33. **GOVERNING LAW AND VENUE:** Any and all legal action necessary to enforce the Agreement will be held in a state court of competent jurisdiction located in Palm Beach County and the Agreement will be interpreted according to the laws of Florida.

34. **COMPLIANCE WITH LAWS:** The Contractor shall conduct operations under this Agreement in compliance with all applicable laws, regulations and rules.

35. **SEVERABILITY:** The invalidity, illegality, or non-enforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

36. **ASSIGNMENT:** No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or part by the Contractor without the express written consent of the Authority. The Authority shall have full discretion to approve or deny, with or without cause, any proposed assignment or assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the Authority shall be null and void and shall be grounds for the Authority to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to the Contractor, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of the Authority under this Agreement to the Contractor shall cease, and Authority shall have the right to call the performance bond or letter of credit and shall be free to negotiate with other contractors or any other person or company for the service of the franchise area which is the subject of this Agreement. In the event of any assignment, assignee shall fully assume all the liabilities of the Contractor.

It is the intent of the parties that no person, corporation or company, whether by itself or through a relative, itself or through its parent(s), subsidiary(s) or holding companies, shall at any time hold or have control of more than two (2) of the four (4) Solid Waste and Recycling Collection Franchise Service Areas identified as Service Area 1, Service Area 2, Service Area 3 and Service Area 4, nor exceed this amount from the acquisition of an additional franchise.
For purposes of this section a parent, subsidiary or holding company shall mean any person, corporation or company holding, owning or in control of more than 10% of the stock or financial interest of another person, corporation or company.

37. **MODIFICATION:** This Agreement constitutes the entire contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto. Such modification shall be in the form of an Amendment executed by both parties.

38. **INDEPENDENCE OF AGREEMENT:** It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners between the parties hereto, or as constituting the Contractor as the agent, representative or employee of the Authority for any purpose whatsoever. The Contractor is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

39. **ANNEXATIONS AND INCORPORATIONS:** Adjustments to Service Area boundaries and the rights of the parties to this Contract due to municipal annexation or contraction will be as provided by Florida Statutes Section 171.062, as amended, or its successor. Adjustments to Service Area boundaries and the rights of the parties to this Agreement due to incorporation will be as provided by Florida Statutes Section 165.061, as amended, or its successor.

40. **CHANGE OF LAW:** The parties understand and agree that the Florida Legislature from time to time has made comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future, whether federal, state or local, which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law.

To the extent that any law effective after the opening and awarding of bids for this Agreement is in conflict with, or requires changes in, the provisions of collection service or exclusive rights set out in this Agreement, the parties agree to enter into good-faith negotiations for the resolution of any such changes in this Agreement as a result of change in law.

41. **OTHER RATE ADJUSTMENTS:** The Authority will strictly enforce all of the provisions of the Franchise Agreement including liquidated damages clauses for any performance quality problems. The Contractor shall not be allowed rate increases on the basis that the Contractor bid too low or agreed to do the work for a lower bidder's price. Non-performance of Franchise Agreement or a request for a rate increase, either of which are attributed to the Contractor accepting the Franchise Agreement award at an insufficiently low rate, may, at the Authority's sole discretion, result in cancellation of all Solid Waste and Recycling Collection Services Franchise Agreements for all Service Areas entered into with the Contractor.
42. EQUAL BUSINESS OPPORTUNITY PROGRAM

42.1 SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE (S/M/WBE) PARTICIPATION:

The Governing Board of the Authority has implemented the Economic Inclusion Policy administered by the Equal Business Opportunity (EBO) Program Office to ensure that all segments of its business population, including, but not limited to small, local, minority, and women-owned businesses, have an equitable opportunity to participate in the Authority's procurement process as described in Section 6 of the Purchasing Manual, is incorporated herein.

A. Affirmative Procurement Initiative (API):

The Authority has applied the following contract-specific Affirmative Procurement Initiative to this contract. Contractor hereby acknowledges and agrees the selected API requirement shall also be extended to any change order or subsequent contract modification, and absent EBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement.

SBE and M/WBE SUBCONTRACTOR PARTICIPATION:

The Authority established a mandatory 20% participation goal for Small/Minority/Women Business Enterprise (S/M/WBE) participation in this agreement in accordance with the solicitation.

B. Subcontractor/Supplier Utilization Plan:

The Subcontractor / Supplier Utilization Plan submitted by the Contractor to Authority with its proposal for this contract contains the names of the certified S/M/WBE Subcontractors to be used by Contractor on this contract, the respective percentages and dollar value of the total prime contract dollar value to be awarded and performed by each S/M/WBE Subcontractor, and documentation including a description of each S/M/WBE Subcontractor's scope of work and confirmation of each S/M/WBE Subcontractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the EBO, the failure of Contractor to attain this subcontracting goal for S/M/WBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the Authority, and may result in debarment from performing future Authority contracts, withholding of payment up to the dollar amount of the underutilization below the agreed upon S/M/WBE subcontracting goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the EBO Program Policy, or under any other law.
C. Calculating S/M/WBE Participation:

The percentage of participation shall be calculated by dividing the actual payments made to local certified S/M/WBE firms providing goods and/or services necessary to support the required services under the agreement by the Net Revenue earned in the performance of this Agreement. Net Revenue shall be defined as Gross Revenue less the sum of the disposal charges billed to commercial customers, the disposal charges in excess of the residential credit incurred by the Contractor and paid to the Authority in performance of its services to residential customers, and the franchise fees paid to the Authority. Gross Revenue shall be defined as all revenue derived by the Contractor in performance of this Agreement, including but not limited to the monthly residential rates paid to the Contractor by the Authority, the commercial charges billed by the Contractor to the commercial customer, container maintenance charges, special services charges, and all other revenue received by the Contractor from any source in relation to this Agreement.

The goal is to encourage doing business with certified local S/M/WBE firms with certifications from any certifying organization in the State of Florida approved by the Authority. For the purpose of this requirement, an eligible local S/M/WBE firm included in the Contractor's plan submitted in response to the solicitation giving rise to this Agreement must have had a valid certification prior to the due date for responses to Bid/RFP. Certified local S/M/WBE firms added after contract award must have a valid certification prior to the date upon which they are added. Furthermore, such firms shall be domiciled in Palm Beach County as defined in the Authority's Purchasing Manual, Section 6, incorporated herein, as of the aforementioned dates required for certification.

D. Demonstration of Good Faith Effort:

For the purposes of this agreement, “Good Faith Effort” as defined in the Authority's Purchasing Manual, is incorporated herein. The Subcontractor/Supplier Utilization Plan is a binding part of this contract agreement which states the Contractor's commitment for the use of Joint Venture Partners and/or Subcontractors/Suppliers in the performance of this contract agreement. The Subcontractor/Supplier Utilization Plan shall state the names, scope of work, and dollar value of work to be performed by each of Contractor's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the EBO Office. The Subcontractor/Supplier Utilization Plan may be modified by submitting to the EBO Office a request for additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, or dollar values of work to be performed. Upon approval by the EBO office or its designee of the requested additions, deletions or modifications, it shall constitute a duly authorized modification of this Agreement and considered an amendment hereto by consent of the parties satisfying the requirements of Section 37 without necessity of further action of any type by the parties. Among other things, in demonstration of a Good Faith Effort in relation to this Agreement, Contractor shall follow all requirements of the EBO Program, including:

1. If, awarded Contractor is unable to meet the participation requirements for S/M/WBEs specified in its Subcontractor/Supplier Utilization Plan, the contractor shall seek
substitute or additional S/M/WBEs to fulfill the requirements; the requested substitution must be approved in writing by the Coordinator of the EBO Office or designee and the Originating Department Director or designee.

2. If, after reasonable Good Faith Efforts, the Contractor is unable to find an acceptable substitute or additional S/M/WBE, a post-award waiver shall be requested. The request shall document the reasons for the contractor's inability to meet the goal requirement. In the event the contractor is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute or additional for the initial S/M/WBE proposed utilization, the contract may, in the Authority's sole discretion, be terminated for material breach or the Authority may impose other penalties and sanctions within the law.

3. If requesting a post-award vendor subcontracting waiver, the Contractor shall request waiver of a specified subcontracting goal by submitting a Post-Award Vendor Subcontracting Waiver Request Form (See Exhibit J). Documentation and supporting evidence of all Good Faith Efforts made to comply with the subcontracting goal must also be submitted.


1. Contractor acknowledges that the Authority's EBO Program is in furtherance of the Authority's efforts at economic inclusion, and that Contractor's commitments, including but not limited to the Subcontractor/Supplier Utilization Plan, are part of Contractor's scope of work as referenced in the Authority's solicitation that formed the basis for contract award and subsequent execution of this Agreement. Contractor's compliance with the EBO Program and exercise of a Good Faith Effort to achieve the M/WBE and SBE Participation Goals are considered by the parties to this Agreement to be material terms. Contractor voluntarily agrees to fully comply with the EBO Program terms as a condition for being awarded this contract by the Authority. Without limitation, Contractor further agrees to the following terms as part of its contract compliance responsibilities under the EBO Program:

a) Contractor shall cooperate fully with the EBO Office and other Authority departments in their data collection and monitoring efforts regarding Contractor's utilization and payment of all of its subcontractors and suppliers, including both S/M/WBE and non-S/M/WBE firms for their performance of Commercially Useful Functions on this contract, including, but not limited to, the timely submission of completed forms to the Office of EBO as specified in the EBO Program Policy & Procedures, the timely submittal of Monthly Subcontractor/Supplier Utilization Reports (Exhibit H), and when established the entry of data into the Centralized Bidder Registration System (CBR), and ensuring the timely compliance of its subcontractors and suppliers with this requirement;

b) Contractor shall cooperate fully with any Authority or EBO investigation (and shall also respond truthfully and promptly to any Authority or EBO inquiry) regarding possible non-compliance with EBO Program requirements on the part of Contractor or its Subcontractors or suppliers;
c) Contractor shall permit the EBO, upon reasonable notice, to undertake inspections as necessary, including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;

d) Contractor shall immediately notify Authority in writing to the EBO and the Originating Department for this contract of any proposed changes to Contractor's Subcontractor / Supplier Utilization Plan, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by Contractor to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan, including, but not limited to, proposed self-performance of work by Contractor of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers by submitting a Post Award Vendor Subcontracting Waiver Request (Exhibit J) and Change To Utilization Plan form (Exhibit I), and shall be subject to advanced written approval by the Originating Department and the EBO;

e) Contractor shall immediately notify the Originating Department and EBO of any transfer or assignment of its contract with the AUTHORITY, as well as any transfer or change in its ownership or business structure in accordance with Section 36;

f) Contractor shall retain all records of its Subcontractor payments for this contract for a minimum of five (5) years following the conclusion of this contract;

g) In instances wherein the EBO determines that a Commercially Useful Function is not actually being performed by the S/M/WBE firms listed in a Contractor's Subcontractor/Supplier Utilization Plan, the Contractor shall not be given credit for the participation of its S/M/WBE subcontractor(s) or joint venture partner(s) towards attainment of S/M/WBE firm utilization goals, and the Contractor and its listed S/M/WBE firms may be subject to sanctions and penalties in accordance with the EBO Program Policy and Procedures;

h) Contractor acknowledges that the Authority will not execute an agreement for this project until the Contractor and each of its Subcontractors for this project have registered and/or maintained active status in the Authority’s Vendor Registration System and when established its CBR, and Contractor has represented to Authority which primary commodity codes each registered Subcontractor will be performing under for this contract;

i) Contractor acknowledges that the Authority will not execute an agreement for this project until the Contractor provides an executed agreement with each of its S/M/WBE Subcontractors or suppliers with a contract term having the same as with this Agreement at a minimum.
F. Affirmative Procurement Initiatives - Compliance

1. Commercial Non-discrimination Policy Compliance:

As a condition of entering into this agreement, the Contractor represents and warrants that it has complied with throughout the course of this bidding and contract award process, and will continue to comply with, the Authority’s Commercial Non-discrimination Policy, as described in Section 50 hereof and in Section 6 of the Purchasing Manual, is incorporated herein. As part of such compliance, Contractor shall not discriminate on the basis of race, color, national origin, religion, ancestry sex, age, marital status, familial status sexual orientation, gender identity or expression, disability or genetic information, or on the basis of any otherwise unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the Authority’s relevant marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in Authority contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Contractor’s certification of its compliance with this Commercial Non-discrimination Policy as submitted to the Authority pursuant to the bid solicitation for this contract is hereby attached and incorporated into the material terms of this Agreement. Contractor shall incorporate this clause into each of its subcontractor and supplier agreements entered into pursuant to Authority contracts.

2. Prompt Payment:

As a requirement of this contract by Contractor, Contractor shall be required to submit to Authority accurate payment information with each invoice regarding each of its subcontractors to ensure that the Contractor’s reported subcontract participation is accurate. Contractor shall pay its subcontractors in compliance within timeframes set forth in accordance with the Florida Local Government Prompt Payment Act, or within ten (10) days of receipt of payment from the Authority, whichever is sooner.

3. Violations:

In addition to the above, Contractor acknowledges and agrees that it is a violation of the EBO Program Policy and Procedures and a material breach of this Agreement to:

a) Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE for purposes of benefitting from the EBO Program;
b) Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the EBO Program;

c) Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE firm;

d) Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the EBO Program; and

e) Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the EBO Program.

4. Penalties, Sanctions and Debarment:

Any person who violates the provisions of this section shall be subject to the provisions of Section 6 of the EBO Program and Section 19 of this Agreement including but not limited to:

a) Suspension of contract;

b) Withholding of funds up to an amount equivalent to the deficiency in the S/M/WBE Participation;

c) Termination of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;

d) Refusal to accept a response or proposal; to a future bid or RFP and

e) Disqualification of Contractor or other business firm from eligibility for providing goods or services to the Authority for a period not to exceed three (3) years (subject to change) (upon Authority Board approval).

43. LOCAL BUSINESS PARTICIPATION: The Governing Board of the Authority has made it a goal for this Agreement that the use of local businesses be maximized. For the purposes of this requirement, the term "local business" means a business which has a permanent place of business within the county and which holds a business tax receipt issued by the county that authorizes the business to provide the goods, services, or construction to be purchased and which business tax receipt is issued prior to the issuance of this Invitation to Bid. If the business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one (1) of the joint ventures/partners meets the test set forth in this subsection. For the purposes of this requirement, having a "permanent place of business" within the county means having headquarters which are located within the county or a permanent office or other site located within Palm Beach County from which the local business will produce or provide a substantial portion of the goods or perform a substantial portion of the services to be purchased and which headquarters or office was in existence prior to the issuance of the Invitation to Bid. A post office box or location at a postal service center shall not constitute a permanent place of business. Contractor
shall prioritize the satisfaction of the S/M/WBE goals established in Section 42 of the Agreement. Upon satisfaction of the requirements of Section 42, Contractor shall prioritize the utilization of local businesses. For every procurement, Contractor shall contact local businesses that provide the supplies or services sought, assess their qualifications and interest to provide the supplies or services sought, and provide them with the opportunity to submit a quote, bid or proposal. Contractor shall thoroughly investigate the capabilities of local businesses and maintain documentary evidence that it did not reject local businesses without sound reasons. The Contractor agrees to maintain all relevant records and information necessary to document compliance with this contract for five (5) years following the term of this Agreement and shall allow the Authority to inspect such records upon request.

44. **PUBLIC ENTITY CRIMES:** No Contractor may be a person or affiliate identified on the Department of General Services "convicted vendor" list. This list is defined as consisting of persons and affiliates who are disqualified from public contracting and purchasing process because they have been found guilty of a public entity crime. The Contractor is required to comply with Florida Statutes Section 287.133, as amended, or its successor.

45. **SUBSTANTIAL COMPLIANCE:** The Contractor shall promptly collect all materials disposed of by the customer, provided the materials are prepared and placed within substantial compliance with the guidelines as set forth herein. Any dispute as to the standards of substantial compliance shall be determined by the Contract Administrator or his designee.

46. **COMPETENCY TO CONTRACT:** The Contractor expressly recognizes, acknowledges, and agrees the Solid Waste Authority of Palm Beach County is a legally constituted agency, that is, a dependent special district created by the Florida Legislature in Chapter 2001-331, Laws of Florida. Furthermore, the Contractor expressly admits, acknowledges, and recognizes the Authority’s jurisdiction and ability to enter into collection franchise agreements in Palm Beach County. The Contractor expressly recognizes, acknowledges and agrees that the Authority has the legal right under Chapter 2001-331, Laws of Florida, to maintain flow control of Solid Waste generated within Palm Beach County, and has the right under 403.7046 F.A.C. to provide for the exclusive collection, transportation and processing of Recovered Materials from single family and multi-family residential properties. The Contractor hereby waives any legal causes of action regarding the Solid Waste Authority’s competency and/or ability to enter into solid waste collection franchise agreements.

47. **COMMUNITY SERVICE:** The Contractor shall provide collection of debris through means of roll-off Container(s), placement and collection pull service or by mechanical means utilizing a clamshell vehicle throughout each Fiscal Year, at no cost to the Authority or others, for illegal dumping, neighborhood cleanups and special events, including, but not limited to the Great American Cleanup, and other events as requested by the Authority.

Contractor shall pay the cost of loading and transporting such containers and/or debris to an Authority approved disposal facility. The Authority shall pay the cost of disposal.

For neighborhood cleanups and special events, Contractor shall provide collection of debris on a schedule as determined by the Authority’s community service manager or designee. In the case of illegal dumping that is determined by the Authority to pose a nuisance or danger to the public, Contractor shall provide collection of debris within 24 hours of notice sent by either electronic means or by phone.
The maximum quantity of debris to be collected within Service Area 6 during each fiscal year of the Agreement is 200 Cubic Yards.

Contractor shall receive a written quarterly report from the Authority to accurately reflect the amount of debris collected each quarter and the total year-to-date.

48. **OFFICE OF THE INSPECTOR GENERAL:** Palm Beach County has established the Office of the Inspector General, Ordinance (OIG) No. 2009-049, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Authority has entered into an agreement with Palm Beach County for Inspector General services. This agreement provides for the Inspector General to provide services to the Authority in accordance with the authority, functions and powers set out in the ordinance. All parties doing business with the Authority and receiving Authority funds shall fully cooperate with the Inspector General including providing access to records relating to this Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the Contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with this Agreement and detect corruption and fraud. Failure to cooperate with the Inspector General or interference with or impeding any investigation shall be a violation of Ordinance 2009-049 and punishable pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

49. **SCRUTINIZED COMPANIES:**

   A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or is engaged in business operations in Cuba or Syria.

   If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by Contractor, this Contract may be terminated and a civil penalty equal to the greater of $2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.

   B. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel pursuant to F.S. 215.4725.

   If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by Contractor, this Contract may be terminated and a civil penalty equal to the greater of $2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.
50. **COMMERCIAL NON-DISCRIMINATION POLICY:** It is the policy of the Authority not to enter into a contract or to be engaged in business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor’s supplier’s or commercial customer’s employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in relevant marketplace for Palm Beach County.

51. **THIRD PARTY BENEFICIARY DISCLAIMER:** It is not the intention of these documents to create third party beneficiary status in any person or entity that is not a direct party to this Agreement. No language in this Agreement should be construed or interpreted as creating a third party beneficiary.

52. **PUBLIC RECORDS, ACCESS AND AUDITS**

1. It is the intent of this Article to maintain compliance with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended.

2. **DESIGNATED RECORDS CUSTODIAN CONTACT INFORMATION:**

   **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTORS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

   **RECORDS MANAGER**
   **SOLID WASTE AUTHORITY OF PALM BEACH COUNTY**
   **7501 NORTH JOG ROAD**
   **WEST PALM BEACH, FL. 33412**
   **561-640-4000 EXT. 4210**
   **RECORDS CUSTODIAN@SWA.ORG**

3. The Contractor shall maintain records related to all charges, expenses, and costs incurred in estimating and performing the work, in accordance with the timeframes and classifications for records retention as per the General Records Schedule GS1-SL for State and Local Government Agencies (see: http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/) after completion or termination of this Contract. Upon AUTHORITY’S request, Contractor shall provide AUTHORITY with access to such records during normal business hours at a location within Palm Beach County for purposes of inspection or audit.

4. Notwithstanding anything herein to the contrary, the Contractor expressly acknowledges that: i) it is providing a specific service to the AUTHORITY in the performance of this Contract; ii) acting on behalf of the AUTHORITY in the performance of this Contract; iii) that it has read and is familiar with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended, and both understand its responsibility and obligation to comply with this law; and iv) to the extent any question(s) arise regarding its duties to produce public records, it shall contact the Records Manager with same.
5. Any public records requests directed to, or related in any way to this contract shall be directed solely to the Records Manager. If the requested records are not in the possession of the Records Manager they shall immediately notify the Contractor and the Contractor must provide the records or allow access to the records within a reasonable time. A Contractor who fails to provide the records to the public agency within a reasonable time may be subject to penalties under Florida Statutes (F.S) §119.10, and §119.10(2) provides that a person who willfully and knowingly violates the Public Records Act commits a misdemeanor of the first degree, which is punishable by up to a year in jail and a fine not to exceed $1,000.

6. Therefore, the Contractor is required to:

1) Keep and maintain public records that ordinarily and necessarily would be required by the AUTHORITY in order to perform the service;

2) Upon AUTHORITY’s request from the AUTHORITY’s Records Manager provide the AUTHORITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time on the same terms and conditions that the AUTHORITY would provide the records at a cost that does not exceed the cost provided by Florida law;

3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following the completion of the Agreement if the Contractor does not transfer the records to the AUTHORITY; and

4) Upon completion of the Agreement, transfer, at no cost, to the AUTHORITY, all public records in possession of the Contractor or keep and maintain public records required by the AUTHORITY to perform the service. If the Contractor transfers all public records to the AUTHORITY upon completion or termination of the Agreement the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the AUTHORITY, upon request from the AUTHORITY’s Record Manager, either during performance of the Agreement or after termination or completion of the Agreement in a format that is compatible with the information technology systems of the AUTHORITY.

7. Failure of the Contractor to comply with these requirements shall be a material breach of this Contract.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**
In Witness Whereof, the **Solid Waste Authority of Palm Beach County**, at a regular meeting thereof, by action of the Authority Board authorizing and directing the foregoing be adopted, has caused these presents to be signed by the Authority’s Executive Director, and the Authority’s seal to be hereunto affixed, and ___________________________ has executed this Agreement all as of the day and year first above written.

**SOLID WASTE AUTHORITY OF PALM BEACH COUNTY**

By: ____________________________

Mark Hammond, Executive Director

(Seal)

**ATTEST:**

By: ____________________________

Sandra Vassalotti, Clerk to the Board

**APPROVE AS TO LEGAL SUFFICIENCY**

By: ____________________________

Howard J. Falcon, III
General Counsel

**APPROVE AS TO TERMS AND CONDITIONS**

By: ____________________________

Signature

Print Name

Title

**ATTEST:**

By: ____________________________

Corporate Secretary

**WITNESSES:**

By: ____________________________

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

Approved by Authority Board on ________________
SOLID WASTE AND RECYCLING COLLECTION SERVICES
FRANCHISE AGREEMENT

EXHIBITS
Solid Waste Authority Franchise Area Boundaries

Description of the boundaries of franchise known as **Service Area 6** in Palm Beach County, Florida is as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Township</th>
<th>Range</th>
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<tr>
<td>2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13 thru 42</td>
<td>44</td>
<td>41</td>
</tr>
<tr>
<td>7, 8, 9 (south of, and inclusive of, the south side of Forest Hill Boulevard), 10 (south of, and inclusive of, the south side of Forest Hill Boulevard and west of, and inclusive of, the west side of Jog Road)</td>
<td>44</td>
<td>42</td>
</tr>
<tr>
<td>15, 22, 27, 34, 39 (west of, and inclusive of, the west side of Jog Road), 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33, 40, 41, 42</td>
<td>44</td>
<td>42</td>
</tr>
<tr>
<td>1, 2, 3, 4, 5, 6</td>
<td>45</td>
<td>41</td>
</tr>
<tr>
<td>3, 4, 5, 6, (west of, and inclusive of, the west side of Jog Road)</td>
<td>45</td>
<td>42</td>
</tr>
<tr>
<td>7, 8 (north of and inclusive of north side of Hypoluxo Rd)</td>
<td>45</td>
<td>42</td>
</tr>
</tbody>
</table>

Less and excepting therefrom all incorporated areas.

All references are as to the Palm Beach County Property Appraiser's property control numbers (tax folio numbers) as used in reference to the Property Appraiser's assessor maps in Palm Beach County, Florida.
## APPROVED RATE SCHEDULE

**SERVICE AREA 6**

**FY 2018-2019 MONTHLY RATES**

### RESIDENTIAL COLLECTION (PER UNIT)

<table>
<thead>
<tr>
<th>Services</th>
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<th>Containerized Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid Waste</td>
<td>$____ (2x/wk)</td>
<td>$____ (2x/wk avg)</td>
</tr>
<tr>
<td>Vegetative</td>
<td>$____ (1x/wk)</td>
<td>XXXXXXX</td>
</tr>
<tr>
<td>Recycling</td>
<td>$____ (1x/wk)</td>
<td>$____ (1.5x/wk avg)</td>
</tr>
<tr>
<td>Cart Maintenance Fee</td>
<td>$2.10</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>$____</td>
<td>$____</td>
</tr>
</tbody>
</table>

### COMMERCIAL COLLECTION

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Container Solid Waste Collection Rate</td>
<td>$3.55 per cubic yard</td>
</tr>
<tr>
<td>Compactor Collection Rate (8 cubic yards or less)</td>
<td>$4.44 (1.25x the container collection rate)</td>
</tr>
<tr>
<td>Commercial Recycling Collection Rate</td>
<td>$________ per cubic yard</td>
</tr>
<tr>
<td>Small Business Generator (less than 1 cubic yard per week, additional Cart maintenance fee)</td>
<td>$32.00 per month ($16.00 collection and $16.00 disposal)</td>
</tr>
<tr>
<td>96 Gallon Recycling Container (1 time per week)</td>
<td>$16.00</td>
</tr>
<tr>
<td>Compactor Collection Rate (greater than 8 cubic yards Roll-off Compactors)</td>
<td>$210.00 per pull</td>
</tr>
<tr>
<td>Roll-off Collection Rate</td>
<td>$175.00 per pull</td>
</tr>
</tbody>
</table>
### SPECIAL SERVICES RATES ESTABLISHED BY THE AUTHORITY

*(Not to be Adjusted during the Term of the Agreement)*

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>RATE PER SERVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rolling Out Commercial 95 or 101 Gallon Container with 10 or more feet per direction</td>
<td>$1.00 (no charge for Residential regardless of distance, no charge for commercial less than 10 feet per direction)</td>
</tr>
<tr>
<td>Rolling Out Container (and returning it to original location)</td>
<td>$1.84 per Service per Container</td>
</tr>
<tr>
<td>Back Door Service (Residential Curbside Only)*</td>
<td>$22.00 per Dwelling Unit</td>
</tr>
<tr>
<td>Opening (and closing) Doors or Gates</td>
<td>No Charge</td>
</tr>
<tr>
<td>Locks for Containers</td>
<td>$9.00 (one time) Charge for Replacements based on cost +10%</td>
</tr>
<tr>
<td>Unlocking Containers</td>
<td>$1.35</td>
</tr>
<tr>
<td>Supplying (and retrofitting) locking mechanism on Container per customer request only</td>
<td>$55.00</td>
</tr>
<tr>
<td>Adding wheels to or changing wheels on Containers</td>
<td>No Charge</td>
</tr>
<tr>
<td>Adding lids to or changing lids on Containers</td>
<td>No Charge</td>
</tr>
<tr>
<td>Moving Container Location Per Customer Request</td>
<td>No Charge</td>
</tr>
<tr>
<td>Changing Out Sizes (above one time per year residential only)</td>
<td>$55.00</td>
</tr>
<tr>
<td>Changing Out Sizes (Commercial)</td>
<td>$55.00</td>
</tr>
<tr>
<td>Additional Scheduled Pick-ups for Residential Containerized Customers</td>
<td>Same as Applicable Commercial Collection Rates (No Disposal Charges)</td>
</tr>
<tr>
<td>Additional Unscheduled (picked up by end of business the following day but not including “on-call”) Pick-ups for Commercial and Residential Containerized Customers</td>
<td>$25.00 Special Service Fee Plus Applicable Commercial Collection and Disposal Rates Per Dumpster (No Disposal Charges for Residential)</td>
</tr>
<tr>
<td>Special Service or Special Equipment required because of impaired accessibility</td>
<td>Negotiable</td>
</tr>
<tr>
<td>Turn around Compactors (commercial customer only)</td>
<td>$20.00 (No Charge for Multi-family)</td>
</tr>
<tr>
<td>Stump/Land Clearing Collection</td>
<td>Negotiable</td>
</tr>
<tr>
<td>Residential Vegetation Collection</td>
<td>$8.00 Per CY</td>
</tr>
<tr>
<td>Residential Mixed Collection (Vegetation with C&amp;D and/or bulk)</td>
<td>$22.00 Per CY</td>
</tr>
</tbody>
</table>

* No charge for residents medically unable to bring Solid Waste or Recovered Materials to curbside as delineated in Section 4.
MONTHLY CONTAINER MAINTENANCE FEES ESTABLISHED BY THE AUTHORITY
(Not to be Adjusted during the Term of the Agreement)

<table>
<thead>
<tr>
<th>CONTAINERS (NON-COMPACTING)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIZE (cubic yards)</td>
</tr>
<tr>
<td>CART</td>
</tr>
<tr>
<td>2 YD</td>
</tr>
<tr>
<td>3 YD</td>
</tr>
<tr>
<td>4 YD</td>
</tr>
<tr>
<td>6 YD</td>
</tr>
<tr>
<td>8 YD</td>
</tr>
<tr>
<td>10-40 YD ROLL-OFF</td>
</tr>
</tbody>
</table>

Capacities in between these values can be obtained by interpolation. Capacities outside of these values can be obtained by extrapolation.

COMMERCIAL SOLID WASTE AND VEGETATIVE DISPOSAL CHARGE CALCULATION

The Authority will determine the commercial disposal fee rates ($/cubic yard) each Fiscal Year based on a calculation supplied by the Authority and the tipping fee. The calculation for non-compactad Garbage and Trash is 134 lbs/cubic yard times the Authority’s tipping fee ($/ton) times 1 ton/2000 lbs = ______$/cy. Commercial non-compactad Vegetation is calculated at 350 lbs/cubic yard times the Authority’s tipping fee ($/ton) times 1 ton/2000 lbs = ______$/cy. The compacted rate for commercial solid waste or vegetative waste may be billed at either actual expense or three times the rate for non-compactad solid waste or vegetative rate, respectively.

In the unlikely event the Authority charges a tipping fee for Recovered Materials, the Contract Administrator will determine the conversion factor and calculate the factor times the tipping fee for Recovered Materials. The Contractor will be responsible for billing Commercial Recycling Collection customers for the Recovered Materials disposal fee.
### Residential Solid Waste Disposal Credit Calculation

<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Generation Factor (Tons/Year)</th>
<th>Times(x) Garbage Tipping Fee</th>
<th>Annual Credit per unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Single Family</td>
<td>1.10</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>II</td>
<td>Multi-family, 4 or less units</td>
<td>0.67</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>III</td>
<td>Mobile Homes</td>
<td>1.10</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>IV</td>
<td>Multi-family, more than 4 units</td>
<td>0.74</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

### Residential Vegetative Waste Disposal Credit Calculation

<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Generation Factor (Tons/Year)</th>
<th>Times(x) Vegetation Tipping Fee</th>
<th>Annual Credit per unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Single Family</td>
<td>0.85</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>II</td>
<td>Multi-family, 4 or less units</td>
<td>0</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>III</td>
<td>Mobile Homes</td>
<td>0.58</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>IV</td>
<td>Multi-family, more than 4 units</td>
<td>0</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>
PAYMENT ADJUSTMENT SCHEDULE

A. Annual Adjustment – Non-Fuel

The annual adjustment shall be applied to those rates subject to adjustment as shown in Exhibit B and as provided within this Agreement. For the purpose of this Agreement, the Non-Fuel component is assumed to represent 90% of the Contractor’s costs therefore 90% of the approved rates shall be so adjusted.

The rates shall be adjusted as follows:

The rates shall be adjusted annually, commencing on the first anniversary date, by the change in the Water and Sewer and Trash Collection Services Index, Series ID CUSR0000SEHG, as published by the United States Department of Labor, Bureau of Labor Statistics (www.bls.gov). The change in the index shall be calculated by dividing the average of the index over the twelve month period ending the December preceding the effective date of the adjustment by the average of the index over the twelve month period from January 2017 through December 2017. The first adjustment shall be effective October 1, 2019.

For example:

For the year beginning October 1, 2019, the average of the index over the twelve month period from January 2018 through December 2018 shall be divided by the average of the index over the twelve month period from January 2017 through December 2017. The result shall be multiplied by the rates subject to adjustment, and that result shall be rounded to the nearest cent. The resultant rates shall be effective from October 1, 2019 through September 30, 2020.

B. Bi-Annual Fuel Adjustment (Fuel Surcharge/Credit)

The rates subject to adjustment shall be subject to a bi-annual fuel price surcharge/credit for fluctuations in the price of fuel. For the purpose of this Agreement, fuel is assumed to represent 10% of the Contractor’s costs therefore 10% of the approved rates shall be so adjusted.

The rates shall be adjusted as follows:

For the rates subject to adjustment, a bi-annual fuel surcharge/credit shall be charged/credited basis based on the percentage change in the bi-annual average price of fuel as published by the Oil Price Information Service (OPIS) and measured by the OPIS Standard Rack, OPIS No. 2 Distillate Gross Prices, Unbranded Average for Miami, Florida between the month of November 2017 and the month two (2) months prior to the effective date.

For example:

For the month of October 2018, the fuel surcharge/credit shall be calculated by dividing the reported unbranded average price for August 2018 by the unbranded average price for November 2017, multiplying the result by ten (10) percent of the bid or Authority established price, and subtracting ten (10) percent of the bid or Authority established price.

Assuming:

<table>
<thead>
<tr>
<th>Index for November</th>
<th>2017</th>
<th>315.98</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index for August</td>
<td>2018</td>
<td>340.67</td>
</tr>
</tbody>
</table>

Commercial Solid Waste Collection Rate (per yd.) $3.55

Surcharge: \[340.67/315.98 \times 0.10 \times 3.55 - (0.10 \times 3.55)\] = $0.0254

The surcharge/credit shall be rounded to the nearest cent, which in this example would result in a $0.03 per cubic yard surcharge.
PERFORMANCE BOND REQUIREMENT

The Annual Performance Bond due to the Authority from the Contractor is calculated as:

Gross Annual Revenues (Minus Disposal Fees paid to the Authority) x \(\frac{1}{3}\) = Performance Bond Required

**Sample Performance Bond Requirement**

<table>
<thead>
<tr>
<th>Gross Revenue</th>
<th>$2,450,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less Disposal Fees</td>
<td>$750,000</td>
</tr>
<tr>
<td></td>
<td>$1,700,000</td>
</tr>
</tbody>
</table>

Annual Performance Bond Requirement = \(0.3333 \times 1,700,000\) = $566,667
MONTHLY FINANCIAL REPORTING FORMAT

The Contractor shall submit to the Authority within forty-five (45) days of the end of each month a revenue statement prepared in accordance with general accepted accounting standards for each residential and commercial operation within each Service Area. Therefore, if a Contractor has two (2) Service Areas, four (4) separate monthly statements will need to be submitted: two (2) residential and two (2) commercial.

The Contractor shall disclose all methods of allocations used to distribute revenues between Service Areas and/or commercial and residential operations. The disclosure shall be in narrative form and include the basis for the allocation method.

The required format for monthly financial statement reporting in accordance with this Franchise Agreement is shown below.

(Contractor)

Statement of Revenues and Disposal Expenses
(Residential or Commercial) Service Area X
For (month, year) ended (month, year)

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>$ __________</th>
</tr>
</thead>
<tbody>
<tr>
<td>(list by type - commercial and residential,</td>
<td></td>
</tr>
<tr>
<td>including collection rates, container rental,</td>
<td></td>
</tr>
<tr>
<td>special service rates, etc.)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Revenue:</td>
</tr>
<tr>
<td></td>
<td>$ __________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Disposal Expenses:</th>
<th>$ __________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposal fees paid to the Authority</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Net</td>
</tr>
<tr>
<td></td>
<td>$ __________</td>
</tr>
</tbody>
</table>

Franchise Fees (Net x .03%) $ __________

"The Accompanying Notes are an Integral Part of this Statement"
## AUTHORITY PUBLIC DROP-OFF RECYCLING CONTAINERS

### SERVICE AREA 6

ALL CONTAINERS ARE 8CY UNLESS NOTED

<table>
<thead>
<tr>
<th>Organization</th>
<th>Address</th>
<th>CityStZip</th>
<th>DistrictNum</th>
<th>ServiceDays</th>
<th>Frequency</th>
<th>Qty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boys and Girls Club of PBC, Inc.</td>
<td>3401 South Shore Blvd</td>
<td>Wellington, FL 33411</td>
<td>Wellington</td>
<td>Tues</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Chancellor Corp Center</td>
<td>12008 South Shore Blvd</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Commerce Park/Forum Publication</td>
<td>11496-11576 Pierson Road</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Cubesmart Self Storage</td>
<td>6788 Lantana Rd</td>
<td></td>
<td>2</td>
<td>Mon-Thurs</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Cubesmart Self Storage</td>
<td>6680 Lantana Rd</td>
<td></td>
<td>2</td>
<td>Mon-Thurs</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Fortune Way G Building</td>
<td>11320 Fortune Circle</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Lake Wellington Professional Center</td>
<td>12230 Forest Hill Blvd #110</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Nassau Square</td>
<td>7721 Lake Worth Rd</td>
<td>Lake Worth, FL 33467</td>
<td>2</td>
<td>Tues - Fri</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Nassau Square - Metro Lumber</td>
<td>7645 Lake Worth Rd</td>
<td></td>
<td>2</td>
<td>Tues - Fri</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>PS Business Park</td>
<td>3132 Fortune Way</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>PS Business Park</td>
<td>11420 Fortune Cir</td>
<td>Wellington</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoppes at Chancellor</td>
<td>12020 South Shore Blvd #400</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues - Fri</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>The Marketplace</td>
<td>7350 Lake Worth Rd</td>
<td>Lake Worth, FL 33463</td>
<td>2</td>
<td>Tues - Fri</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Wellington Country Plaza</td>
<td>12789 Forest Hill Blvd W #E</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues - Fri</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>Wellington Land Development</td>
<td>3340 Fairlane Farms Rd</td>
<td>Wellington</td>
<td></td>
<td></td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Wellington Land Development</td>
<td>3281 Fairlane Farms Rd</td>
<td>Wellington</td>
<td></td>
<td></td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Wellington Land Development</td>
<td>3420 Fairlane Farms Rd</td>
<td>Wellington</td>
<td></td>
<td></td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Wellington, Village of - City Hall</td>
<td>12300 Forest Hill Blvd</td>
<td>Wellington</td>
<td></td>
<td></td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Wellington, Village of - Public Works</td>
<td>14000 Greenbriar Blvd</td>
<td>Wellington, FL 33414</td>
<td>Wellington</td>
<td>Tues</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Worth Plaza</td>
<td>7111 Lake Worth Rd</td>
<td>Lake Worth, FL 33467</td>
<td></td>
<td>2</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

Total Containers 30
### MOBILIZATION AND PREPARATION

<table>
<thead>
<tr>
<th>Task</th>
<th>Completion Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit Residential Curbside Routing to SWA for review and approval</td>
<td>6/7/19</td>
</tr>
<tr>
<td>Provide SWA with truck orders or verification of vehicle source(s)</td>
<td>6/14/19</td>
</tr>
<tr>
<td>Hire operations manager, supervisors and provide verification to SWA</td>
<td>8/23/19</td>
</tr>
<tr>
<td>Secure container source and provide verification to SWA</td>
<td>8/23/19</td>
</tr>
<tr>
<td>Equipment yard and office sited and set up</td>
<td>8/23/19</td>
</tr>
<tr>
<td>Office and accounting staff hired and in place</td>
<td>8/23/19</td>
</tr>
<tr>
<td>Maintenance staff hired and in place</td>
<td>8/23/19</td>
</tr>
<tr>
<td>Disposal bond in place with SWA for October 1, 2019</td>
<td>8/23/19</td>
</tr>
<tr>
<td>Provide transition report to SWA outlining plan to minimize disruptions during transition period</td>
<td>9/2/19</td>
</tr>
<tr>
<td>Secure vehicles</td>
<td>9/2/19</td>
</tr>
<tr>
<td>Supervisors run routes</td>
<td>8/26/19 through 9/01/19</td>
</tr>
<tr>
<td>Disclosure notices mailed to commercial customers</td>
<td>8/29/19</td>
</tr>
<tr>
<td>All Drivers hired and in place</td>
<td>9/07/19</td>
</tr>
<tr>
<td>Drivers and Supervisors run routes</td>
<td>9/10/19 through 9/29/19</td>
</tr>
</tbody>
</table>
## Monthly Subcontractor/Supplier Utilization Report

### SECTION I - GENERAL INFORMATION

- **Project Name:** [Enter Project Name]
- **Contract Number and Work Order Number (if applicable):** [Enter Contract Details]
- **Report #:** [Enter Report Number]
- **Reporting Period:** [Enter Reporting Period]
- **S/M/WBE Contract Goal:** [Enter Goal]
- **Contract Completion Date:** [Enter Completion Date]
- **Prime Contractor Name:** [Enter Name]
- **Prime Contractor Street Address:** [Enter Address]
- **Prime Contractor Phone #:** [Enter Phone Number]
- **Prime Contractor Email Address:** [Enter Email]
- **Project Manager (PM) Name:** [Enter PM Name]
- **PM Phone #:** [Enter PM Phone Number]
- **PM Email Address:** [Enter PM Email]

### SECTION II - UTILIZATION INFORMATION

Prime Contractor must list ALL Certified and non-certified subcontractors that will be utilized for the entire contract period. For assistance in completing this form, please call the Equal Business Opportunity Program at (561) 640-4000.

<table>
<thead>
<tr>
<th>ROLE</th>
<th>FEDERAL IDENTIFICATION NUMBER</th>
<th>BUSINESS NAME</th>
<th>S/M/WBE CERTIFIED (Y/N)</th>
<th>DESCRIPTION OF WORK</th>
<th>TOTAL PROJECT AMOUNT</th>
<th>AMOUNT PAID DURING REPORTING PERIOD</th>
<th>INVOICE #</th>
<th>TOTAL PAID TO DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRIME CONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$</td>
<td>$</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>SUBCONTRACTOR</td>
<td></td>
<td></td>
<td></td>
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Solid Waste and Recycling Collection
Franchise Agreement No. 20-XXX
**SECTION II - UTILIZATION INFORMATION**

Prime Contractor must list ALL Certified and non-certified subcontractors that will be utilized for the entire contract period. For assistance in completing this form, please call the Equal Business Opportunity Program at (561) 640-4000.

<table>
<thead>
<tr>
<th>ROLE</th>
<th>FEDERAL IDENTIFICATION NUMBER</th>
<th>BUSINESS NAME</th>
<th>S/M/WBE CERTIFIED (Y/N)</th>
<th>DESCRIPTION OF WORK</th>
<th>TOTAL PROJECT AMOUNT</th>
<th>AMOUNT PAID DURING REPORTING PERIOD</th>
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Total Paid to Date for All Subcontractors $  

**SECTION III - AFFIDAVIT**

I hereby affirm that the information on this form is true and complete to the best of my knowledge.

Prime Contractor Authorized Personnel
(Signature)  
Prime Contractor Authorized Personnel (Print)  
Title  
Date
### Monthly Subcontractor/Supplier Utilization Report (Continued)

Please review instructions to complete this form.

#### SECTION I : GENERAL INFORMATION

1. **Project Name**: Enter the entire name of the Project.
2. **Contract Number (work order)**: Enter the Authority contract number and work order number
4. **Reports must be in a numerical series (i.e., 1, 2, and 3).**
5. **Reporting Period**: Enter the beginning and end dates for which this report covers (i.e., 06/01/2019-07/01-2019)
6. **S/M/WBE Contract Goal**: Enter the S/M/WBE Contract Goal on entire contract.
7. **Contract Completion Date**: Enter the expiration date of the contract, (not work order).
8. **Prime Contractor Name**: Enter the complete legal business name of the Prime Contractor.
9. **Prime Contractor Street Address**: Enter the mailing address of the Prime Contractor.
10. **Prime Contractor Phone Number**: Enter the telephone number of the Prime Contractor.
11. **Prime Contractor Email Address**: Enter the email address of the Prime Contractor.
12. **Project Manager (PM) Name**: Enter the name of the Project Manager for the Prime Contractor on the project.
13. **PM Telephone Number**: Enter the direct telephone number of the Prime Contractor’s Project Manager.
14. **PM Email Address**: Enter the email address of the Prime Contractor’s Project Manager.

#### SECTION II : UTILIZATION INFORMATION

15. **Federal Identification Number**: Enter the Federal Identification Number of the Subcontractor /Supplier(s)
16. **Business Name**: Enter the complete legal business name of the Subcontractor/Supplier(s)
17. **S/M/WBE Certified (Yes/No)**: Enter “yes” or “no” to indicate if the subcontractor is S/M/WBE Certified
18. **Description of Work**: Enter the type of work being performed by the Subcontractors/Supplier(s) (i.e., electrical services).
19. **Total Project Amount**: Enter the dollar amount allocated to the Subcontractors/Supplier(s) for the entire project (i.e., amount in the subcontract agreement).
20. **Amount Paid During Reporting Period**: Enter the total amount paid to the Subcontractor/Supplier(s) during the reporting period.
21. **Invoice Number**: Enter the Subcontractor /Supplier’s invoice number related to the payment reported this period.
22. **Total Paid (to Each Subcontractor) to Date**: Enter the total amount paid to the Subcontractor/Supplier(s) to date.
23. **Total Paid to All Subcontractors to Date**: Enter the total amount paid to all subcontractors during reporting period.

#### SECTION III: AFFIDAVIT

24. **Affidavit**: Statement attesting to the contents of the report.
25. **Prime Contractor Name Authorized Personnel (signature)**: Signature of the employee that is authorized to execute the Subcontractor/Supplier Utilization Report.
26. **Prime Contractor Name Authorized Personnel (print)**: Printed name of the employee that is authorized to execute the Subcontractor/Supplier Utilization Report.
27. **Title**: Enter the title of authorized employee completing the Monthly Subcontractor/Supplier Utilization Report.
28. **Date**: Enter the date of submission of the Subcontractor Utilization Report to the Authority.
## SOLICITATION INFORMATION

Instructions: List all changes in the use of certified or non-certified Subcontractors/Suppliers in relation to the Prime Contractor’s original Utilization Plan or latest Change to Utilization Plan approved by the Equal Business Opportunity Office (EBO) for the contract listed below.

<table>
<thead>
<tr>
<th>Name of Prime Contractor:</th>
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<tr>
<td>Contract Name:</td>
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## ORGANIZATION STATUS

All sections of the following table must be completed.

<table>
<thead>
<tr>
<th>Role</th>
<th>Name of Firm</th>
<th>Certifications (S/M/WBE)</th>
<th>New*/Remove**/Change Value</th>
<th>Estimated Total Contract Value ($)</th>
<th>NIGP Code (5-Digit)</th>
<th>Start Date (New Sub Only)</th>
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**IF A NEW FIRM IS ADDED TO THE CONTRACT, ENSURE THEY ARE REGISTERED AS A VENDOR WITH THE AUTHORITY. IF REMOVING/REDUCING THE DOLLAR VALUE FOR A FIRM, ATTACHED DOCUMENTATION ESTABLISHING THAT THE FIRM WAS NOTIFIED AND EVIDENCE OF JUSTIFICATION FOR REQUEST.

**Note:** If the Subcontractor changes listed on this document result in not meeting the subcontracting goal for this contract, you will be contacted by the EBO for further action.

## JUSTIFICATION FOR ALL CHANGES TO UTILIZATION


## BIDDER/PROPOSER SIGNATURE

I hereby affirm that the above information is true and complete to the best of my knowledge and belief. I possess internal documentation from all proposed new Subcontractors/Suppliers confirming their intent to perform the scope of work for the price indicated above. All Subcontractors/Suppliers removed or reduced in dollar value have been notified of the change in writing. I understand and agree that if this change to utilization is approved, this document shall be attached there to and become a binding part of the contract.

<table>
<thead>
<tr>
<th>Prime Contractor’s Authorized Agent</th>
<th>Name (Print)</th>
<th>Date</th>
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<tbody>
<tr>
<td>Equal Business Opportunity Office</td>
<td>Sign &amp; Date</td>
<td>Approved/Denied</td>
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</table>
Post-Award Vendor Subcontracting Waiver Request

DATE: ____________________

**CONTRACT INFORMATION**

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<thead>
<tr>
<th>Contract Title:</th>
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<tr>
<td>Contract #:</td>
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<tr>
<td>Prime Contractor:</td>
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<tr>
<td>Contact Person:</td>
<td>Phone #:</td>
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**RATIONALE FOR WAIVER**

The purpose of this waiver is to specify the good faith efforts made in meeting the required subcontracting goal(s) for this project. The prime contractor is required to submit a change to the Utilization Plan (if not previously submitted) with this Post-Award Subcontracting Waiver Request Form.

1a. Select the statement below that best explains why the required subcontracting goal(s) were not met: (Check all that apply)

- The Authority issued a change order that limited subcontracting opportunities of the scope of work causing the subcontracting goal(s) to not be met
- The Authority issued a change order that required expedited completion of the scope of work, and causing the subcontracting goal(s) to not be met
- The S/M/WBE previously selected for utilization is not available to perform the scope of services and could not be replaced with another S/M/WBE that could perform the scope of work
- The S/M/WBE previously selected for utilization is no longer certified in accordance with the Equal Business Opportunity Program Policy and could not be replaced with another S/M/WBE that could perform the scope of work
- There were other issue(s) that resulted in the subcontracting goal(s) not being met

1b. In the box below, please provide further detail for each statement selected above.
2. List and explain all communication efforts between your firm and each potential S/M/WBE subcontractor related to participation on this contract. Attach all support documentation (i.e. emails, call logs, and faxes) to verify communication. In addition, provide response(s) from the S/M/WBE subcontractor(s). (Attach additional page, if necessary.)

3a. Select the statement that best describes other good faith efforts made: (Check all that apply)

- Helped a vendor become a certified S/M/WBE so they could become a subcontractor on the project
- Offered joint check services or bonding assistance for lines of credit to S/M/WBE subcontractors
- Advertised and contacted certified firms using S/M/WBE Certification lists from the website, trade organizations, professional organizations, and others
- Other:
  - N/A – No Good Faith Effort attempted

3b. In the box below, please provide further details for each statement selected above and attached support documentation.

**AFFIRMATION**

The undersigned does hereby declare that the statements contained herein and all documentation provided are true, accurate and complete and include all material information necessary to determine compliance with the Equal Business Opportunity Program Policy.

<table>
<thead>
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<th>Signature</th>
<th>Name &amp; Title (Print)</th>
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**FOR EBO USE ONLY**

<table>
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<th>Signature</th>
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Affirmative Procurement Initiatives (API) – refers to various Equal Business Opportunity (EBO) Program tools and Solicitation Incentives that are used to encourage greater prime and subcontract participation by Small Business Enterprise (SBE) firms or Minority / Women Business Enterprise (M/WBE) firms, including, but not limited to, bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other EBO Program tools, see, Section 6.4. of this Purchasing Manual).

Authority - Solid Waste Authority of Palm Beach County

Best Value Contracting – any method of procurement in which low price is only one factor, but not the determining factor in the awarding of a contract.

Bid Solicitation – generic term referring to either an Invitation for Bid or a Request for Proposal

Board - Governing Board of the Solid Waste Authority

CAC - Citizen’s Advisory Committee

CCNA - Consultant’s Competitive Negotiation Act.

Centralized Bidder Registration System (CBR) – an electronic system of hardware and software programs by which the Authority requires all prospective respondents and subcontractors that are ready, willing, and able to sell goods or services to the Authority to register. All businesses awarded an Authority contract shall be required to register in the CBR. The CBR System assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from the Authority. The CBR-assigned identifiers are also used by the Equal Business Opportunity (“EBO”) Office for measuring relative availability and tracking utilization of S/M/WBE and all other firms at the prime and subcontract levels by industry or commodity codes and for establishing annual Aspirational Goals and contract-by-contract subcontracting goals.

Certification – the process by which the EBO Office determines a firm to be a bona-fide small, minority, and/or women business enterprise. Any firm may apply for multiple certifications that cover each and every status category e.g., SBE, MBE, or Women Business Enterprise (“WBE”) for which it is able to satisfy eligibility standards. The EBO Office may contract these services to a regional certification agency or other entity. For purposes of certification, the Authority may accept any firm that is certified by local government entities and other organizations identified herein that have adopted certification standards and procedures similar to those followed by the EBO, provided the prospective firm satisfies the eligibility requirements set forth in the Purchasing Manual, Section 6.4.

Commercially Useful Function – a Small, Minority, and/or Women Business Enterprise (S/M/WBE) firm performs a Commercially Useful Function when it is responsible for execution of the work of the Authority’s contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, and that are a subset of the broader scope of work that is the subject matter of the goods and services that are being purchased by the Authority under the terms of the prime contract. The S/M/WBE firm must also be responsible for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed.
**Contract** - broad definition: all types of agreements, regardless of what they may be called (purchase orders, agreements, etc.), for the procurement of goods and services; narrow definition: a written agreement signed by all parties for the procurement of professional services or construction. Narrow definition word will be capitalized.

**Contract Request** - a requisition for the procurement of professional services or construction.

**Consultant Services Authorization (CSA)** - an agreement that authorizes a specific scope of work under a Master (Continuing) Contract or Agreement. It references and is governed by the terms and conditions of the Master Contract or Agreement.

**Control** – the authority of a person or business owner to sign responses to solicitations and contracts, make price negotiation decisions, sell or liquidate the business, and have the primary authority to direct the day-to-day management and operation of a business enterprise without interference from others.

**Evaluation Preference** – an API that may be applied by the EBO Office to construction, professional services, other contractual services, trade services, and commodities contracts that are to be awarded on a basis that includes factors other than lowest price and wherein responses that are submitted to the Authority by S/M/WBE firms may be awarded additional points in the evaluation process in the scoring and ranking of their proposals against those submitted by other prime respondents.

**Good Faith Efforts** – documentation of the Respondent’s intent to comply with EBO Program Goals and procedures including, but not limited to, the following: (1) documentation as stated in the solicitation reflecting the Respondent’s commitment to comply with SBE or M/WBE Goals as established by the EBO Office for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., solicitations of bids/proposals/qualification statements from all qualified SBE firms or M/WBE firms listed in the EBO Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor’s posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Respondent; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors).

**Graduation** – an S/M/WBE firm permanently graduates from the Authority’s S/M/WBE program when it meets the criteria for graduation set forth in this EBO Program. A firm’s graduation or temporary suspension from participation as an S/M/WBE firm in the EBO Program does not necessarily affect its eligibility to be recertified and to participate in the Authority’s EBO policy as an S/M/WBE. Graduated S/M/WBE firms shall be eligible to apply for S/M/WBE re-certification following the expiration of the two-year period immediately following graduation. Such application for S/M/WBE re-certification shall only be granted on condition that the graduated S/M/WBE firm presents documentation as required by the EBO Office that establishes that the S/M/WBE firm’s annual revenues and number of employees have fallen below the small business size standards for the relevant industry as reflected in Exhibit Q of this Purchasing Manual for two consecutive years following the initial post-graduation period. An S/M/WBE firm permanently graduates from the EBO when it meets the criteria for graduation as set forth in In Section 6.4 and Exhibit Q of this Purchasing Manual for a second time. However, a graduated M/WBE firm may continue to participate in, and benefit from, other race-neutral, non-industry-specific remedies of the EBO policy as described in Section ___ of this Policy.

**ILA** - interlocal agreement; agreement between government entities.
Independently Owned and Operated - ownership of an SBE or M/WBE firm must be direct, independent, and by Individuals only. A SBE or M/WBE cannot be the subsidiary of another firm that does not itself (and in combination with the certified SBE or M/WBE firm) satisfy the eligibility requirements for SBE or M/WBE Certification.

Individual - an adult person that is of legal majority age.

Joint Venture Incentives – an Affirmative Procurement Initiative (“API”) that provides inducements for non-Small Minority or Women Business Enterprise (S/M/WBE) firms to collaborate with S/ M/WBE partners in responses to solicitations and performing a Prime Contract to supply commodities to, or to perform Construction, Professional, or Other Services on behalf of the Authority. Joint ventures are established by written agreements between two or more Independently Owned and Controlled business firms to form a third business entity solely for purposes of undertaking distinct roles and responsibilities in the completion of a given contract. Under this business arrangement, each joint venture partner shares in the management of the joint venture and also shares in the profits or losses of the joint venture enterprise commensurately with its contribution to the venture. Incentives under this API may include Evaluation Preferences that are tied to the percentage of SBE or M/WBE participation in the joint venture, and extra contract option years or mobilization fees provided to qualifying joint ventures in certain Construction Services, Professional Services, Other Services, Trade Services, and Commodities contracts.

Master Contract or Agreement - also known as Continuing Contract or Agreement. A written agreement of several years' duration which provides for the use of CSA’s to authorize specific scopes of work as the need arises.

Minority Business Enterprise (MBE) – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified as being at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, and that is ready, willing, and able to sell goods or services that are purchased by the Authority. To qualify as an MBE, the enterprise’s annual revenues and number of employees shall be no greater than the business size standards for its industry as specified in Exhibit Q of this Purchasing Manual, and the MBE shall meet the Significant Business Presence requirements as defined herein. In order to be eligible for participation in S/M/WBE APIs, the M/WBE firm shall be currently certified as being in compliance with the size standards as reflected in Exhibit Q, and as having satisfied all eligibility requirements to participate in the EBO Program. Unless otherwise stated, the term MBE as used in this Program is not inclusive of women-owned business enterprises (WBE).

Minority Group Members – African-Americans, Hispanic Americans, Asian-Pacific Americans, and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

- **African-Americans**: Persons with origins in any of the black racial groups of Africa.
- **Hispanic-Americans**: Persons of Mexican, Puerto Rican, Cuban, Spanish, or Central and South American origin.
- **Asian-Pacific Americans**: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.
- **Native Americans**: Persons having no less than one-sixteenth (1/16th) percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

Minority/Women Business Enterprise (M/WBE) – a firm that is certified as either a minority business enterprise or as a women business enterprise for purposes of the Economic Inclusion Policy and EBO Program as being at least fifty-one percent (51%) owned, managed, and controlled by minority group members and/or women of legal majority age that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing, and able to sell goods or services that are purchased by the SWA, and that meets the Significant Business Presence requirements as defined herein. In order to be eligible for participation in S/M/WBE APIs, the M/WBE firm shall be currently certified as being in compliance with the size standards as reflected in Exhibit Q, and as having satisfied all eligibility requirements to participate in the EBO Program. Unless otherwise stated, the term MBE as used in this Program is not inclusive of women-owned business enterprises (WBE).
**MIWBE Segmented Subcontracting Goals** – the application of multiple goals for M/WBE participation within annual Aspirational Goals or for M/WBE subcontracting goals on an individual Authority contract wherein an overall aggregated M/WBE goal is accompanied by subsets of one or more smaller goals. Such segmented goals specifically target the participation of a particular segment of business enterprises owned and controlled by WBEs or certain Minority Group Members (e.g., African-Americans or Hispanic-Americans) based upon relative availability and significantly greater patterns of underutilization and disparity within an industry as compared to other gender and Minority Group member categories of M/WBEs. The application of Segmented M/WBE goals is intended to ensure that those segments of M/WBEs that have been most significantly and persistently underutilized receive a fair measure of remedial assistance.

**Personal Services Agreement (PSA)** - an agreement for professional services valid up to $25,000 per vendor per fiscal year. It is a short form of a Contract with simplified standard terms and conditions.

**Points** – the quantitative assignment of value for specific evaluation criteria in the vendor selection process used in some construction, professional services, other services, and commodities contracts (e.g., 15 points out of a total of 100 points assigned for S/M/WBE participation as stated in response to a Request for Proposals.)

**Prime Contractor** – the vendor or contractor to whom a purchase order or contract is issued by the Authority for purposes of providing goods or services to the Authority.

**Professional services** - the services of attorneys, consultants, engineers, architects, appraisers, etc.

**Purchasing Services** - the Authority's purchasing department.

**Purchasing Requisition** - a requisition for the procurement of goods or trade services.

**Race-Conscious (R/C)** – any business classification or API wherein the race or gender of business owners is taken into consideration (e.g., references to M/WBE programs and APIs that are listed herein under the heading of “Race-Conscious”).

**Race-Neutral (R/N)** – any business classification or API wherein the race or gender of business owners is not taken into consideration (e.g., references to SBE programs and APIs that are listed herein under the heading of “Race-Neutral”).

**Relevant Marketplace** – the geographic market area affecting the EBO Program as determined for purposes of collecting data for the 2017 Disparity Study, and for determining eligibility for participation under various programs established by this Policy, is defined as Palm Beach County.

**Requestor or Originating Department** - person or unit requesting item to be purchased.

**Responsive Bidder or Offeror** - a person/firm that has submitted a bid or proposal which conforms in all material respects to the requirements set forth in the invitation to bid, or request for proposal, including, but not limited to, the requirements and specifications of the EBO Program and Economic Inclusion Policy.

**Responsible Bidder or Offeror** - a person/firm with the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, financial responsibility and credit which will assure good faith performance.

**Significant Business Presence** - to qualify for participation as an S/M/WBE firm in the EBO Program, the initial designated street address of the S/M/WBE firm’s principal office as stated in its filings with the Florida Department of State must be located within Palm Beach County, or the firm must have a significant business presence for at least one year within Palm Beach County, defined as: an established place of business in Palm Beach County, from which at least 50% of its total full-time, part-time and contract employees are domiciled and regularly based in Palm Beach.
County, and from which a substantial role in the S/M/WBE’s performance of a Commercially Useful Function on the Authority contract is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

Small Business Advisory Committee (SBAC) – an eleven-member citizens committee made up of representatives of trade groups and members of the general business community and appointed by the SWA Board and Executive Director or designee as an advisory group to: (a) assist the Coordinator of the EBO Office or designee, the Executive Director or designee, and the SWA Board in reviewing the continuing policies and programs for vendors, prime contractors, and subcontractors that promote S/M/WBE participation; (b) coordinate activities and actions with the EBO Office, Executive Director, and the Authority Board; and (c) make recommendations to the Coordinator of the EBO Office, the Executive Director or designee, and SWA Board concerning modifications of such policies and programs established pursuant to this Purchasing Manual.

Small Business Enterprise (SBE) – a corporation, partnership, sole proprietorship, or other legal entity for the purpose of making a profit that: (1) is independently owned and operated by individuals legally residing in, or that are citizens of, the United States or its territories; and (2) is currently certified as having annual revenues and/or number of employees that satisfy S/M/WBE size standards on an industry-specific basis (i.e., Construction, Architectural Services, Engineering Services, Professional Services, Commodities, Other Services, and Trade Services) that are reflected in Exhibit Q to this Purchasing Manual; and (3) also satisfies the Significant Business Presence and other eligibility requirements for participation in the EBO Program as defined herein.

Small/Minority/Women Business Enterprise (S/M/WBE) – any for-profit business firm that is certified as being either small, minority, and/or women-owned, controlled, and managed.

Subcontractor – any vendor or contractor that is providing goods or services to a prime contractor in direct furtherance of the prime contractor’s performance of a defined scope of work or deliverables under a contract or purchase order with the Authority. A copy of the executed binding agreement between the prime contractor and the subcontractor shall be submitted prior to the Authority’s issuance of a notice to proceed to the prime contractor.

Trade services - the services of welders, printers, mechanics, janitors, etc.

Unit - department, division, section or other subdivision of the Authority.

Women Business Enterprise (WBE) – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of the Economic Inclusion Policy and EBO Program as being at least fifty-one percent (51%) owned, managed, and controlled by one (1) or more non-minority women individuals of legal majority age that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing, and able to sell goods or services that are purchased by the SWA, and that meets the Significant Business Presence requirements as defined herein. In order to be eligible for participation in S/M/WBE APIs, the WBE firm shall be currently certified as being in compliance with the size standards as reflected in Exhibit Q, and as having satisfied all eligibility requirements to participate in the EBO Program. Unless otherwise stated, the term WBE as used in this Program is not inclusive of minority-owned business enterprises (MBE).

Note: “vendor”, “supplier”, “firm”, “service provider”, “company” and “contractor” are used interchangeably.
SECTION 6 - ECONOMIC INCLUSION POLICY AND PROCEDURES

6.1 Economic Inclusion Policy and Objectives

The Authority shall use its best efforts to ensure that all segments of its business population, including, but not limited to, small, local, minority, and women-owned businesses, have an equitable opportunity to participate in the Authority's procurement process, prime contract, and subcontract opportunities, and that no business shall be excluded from participation, denied benefits of, or otherwise discriminated against, in connection with the award and performance of any contracts with the Authority on the grounds of race, national origin, gender or disability status.

An inclusive, robust, and competitive local marketplace is consistent with the Authority's fiduciary duty to reduce the economic burden on the rate payers it serves. In furtherance of its mission to efficiently and cost-effectively collect and process solid waste on behalf of the residents of Palm Beach County, the Authority seeks to promote the formation, growth, and competitive viability of its indigenous business population through the economic inclusion policies and procedures set forth in this Purchasing Manual.

6.2 Equal Business Opportunity Office

The Equal Business Opportunity (“EBO”) Program will be administered and managed by the Coordinator of the EBO Office. The Coordinator of the EBO Office shall be managed by, and report directly to, the Executive Director. The Coordinator of the EBO Office or designee shall attend all Authority Board meetings to address any Equal Business Opportunity Policy issues that are addressed by the Board's meeting agenda. The EBO Office also shall be primarily responsible for the overall administration and management of the Economic Inclusion Policy, including, but not limited to, application of Affirmative Procurement Initiatives under the EBO Program preferences, the Local Business Enterprise preferences, recommendations to Purchasing and the Office of General Counsel regarding imposition of corrective actions and sanctions for non-compliance with Economic Inclusion Policies, Programs, and Procedures, and other administrative reforms that serve the objectives of this Section.

A representative of the EBO Office shall serve as a voting selection panel member for the award of all “best value” contracts of the Authority where low price is not the sole determining factor in contract award decisions. The role of the EBO Office representative on such selection panels is to promote fairness in scoring that does not improperly favor large and incumbent firms over the comparable meaningful qualifications of S/M/WBE firms. In addition, all prospective formal contract bid solicitations shall be reviewed in advance by the EBO Office for the purpose of recommending elimination of unnecessarily restrictive contract specifications that may serve as barriers or impediments to S/M/WBE participation. The EBO Office shall, when appropriate, recommend de-bundling of large contracts to the Purchasing Department and the Originating Department when such de-bundling may substantially increase S/M/WBE contract opportunities and participation without imposing an undue burden on the Authority in terms of contract management or cost. The Coordinator of the EBO Office or designee shall determine which Affirmative Procurement Initiatives shall be applied to each SWA bid solicitation. The Executive Director shall make the final determination whenever consensus cannot be reached between the EBO Office, the Purchasing Department, and the Originating Department regarding proposed contract specifications and modifications to same.

6.3 Commercial Nondiscrimination Policy

a. Statement of Policy

It is the policy of the Authority not to enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial
treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the relevant marketplace for Palm Beach County.

b. Policy Implementation

The EBO Office shall implement this policy by periodically conducting outreach and by distributing educational materials to the Authority's contracting and vendor community and related trade associations to advise such contractors, vendors and prospective respondents of this policy and the procedures to be followed in submitting complaints alleging violations of this policy. In addition, the Executive Director, the Office of the Chief Financial Officer, the Director of Purchasing, and the Office of the General Counsel shall ensure that the following commercial nondiscrimination clause language is set forth in, and incorporated into, all the Authority contracts that result from formal solicitations:

Every contract and subcontract shall contain a nondiscrimination clause that reads as follows:

"As a condition of entering into this agreement, the company represents and warrants that it will comply with the Authority's Commercial Nondiscrimination Policy as described under Section 6.3 of the Authority's Purchasing Manual. As part of such compliance, the company shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the Authority's relevant marketplace in Palm Beach County. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification or debarment of the company from participating in Authority contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party."

All Formal Solicitations issued for Authority contracts shall include the following certification to be completed by the Respondent:

"The undersigned Respondent hereby certifies and agrees that the following information is correct:

In preparing its response on this project, the Respondent has considered all proposals submitted from qualified, potential Subcontractors and suppliers, and has not engaged in "discrimination" as defined in the Authority's Commercial Nondiscrimination Policy as set forth in Section 6.3 of its Purchasing Manual, to wit: discrimination in the solicitation, selection or commercial treatment of any Subcontractor, vendor, supplier or commercial customer on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in SWA's relevant marketplace of Palm Beach County. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation for responses on this project, it is understood and agreed that, if this certification is false, such false certification
will constitute grounds for the Authority to reject the response submitted by the Respondent on this project, and to terminate any contract awarded based on the response. As part of its response, the Respondent shall provide to the Authority a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the Respondent discriminated against its Subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken. As a condition of submitting a response to the Authority, the Respondent agrees to comply with the Authority’s Commercial Nondiscrimination Policy as described under its Purchasing Manual – Economic Inclusion Policy and Procedures, Section 6.3.

6.4 Equal Business Opportunity Program

A. Factual Predicate and Purpose

1. This policy is adopted to establish an Equal Business Opportunity Program to remedy the ongoing effects of identified marketplace discrimination that the Authority has found continue to adversely affect the participation of Small/Minority and/or Women Business Enterprises (“S/M/WBE”) in SWA contracts.

2. In March 2017, the Authority received and reviewed the Disparity Study Final Report (“the Study”) conducted by Mason Tillman Associates, Ltd. (“MTA”) on behalf of the Solid Waste Authority of Palm Beach County (“SWA”). The MTA Disparity Study used a variety of methodologies and data sources to undertake a comprehensive examination of the relevant marketplace for Authority purchases for the Study period from October 1, 2008, through September 30, 2013. This Study identified a number of barriers, including various forms of marketplace discrimination that appear to have undermined the formation, growth, and equitable participation of minority- and women-owned businesses in SWA purchases and contracts. Among the numerous Study findings that form a strong basis in evidence to support adoption of this Policy are the following:

   a) Statistically significant disparities in the award of both prime and subcontracts to M/WBE firms were found in every one of five industry segments (i.e., Construction, Professional Services, Commodities, Other Services, and Trade Services). These disparities were calculated in compliance with the constitutional parameters set forth in City of Richmond v. J.A. Croson (Croson), and its progeny, and established an inference that marketplace discrimination was affecting market outcomes. Disparity analysis undertaken within certain smaller dollar thresholds supported a conclusion that lack of capacity on the part of M/WBE firms did not cause the identified disparities.

   b) Inferences of marketplace discrimination were buttressed by regression analysis of PUMS data from the relevant geographic market that controlled for a number of variables in the characteristics of business owners, yet yielded significant disparities in business formation rates, business earnings, and access to capital on the basis of race and gender.

   c) Qualitative evidence from a number of interviews and public comments by M/WBE business owners identified a number of discriminatory barriers adversely affecting the utilization of ready, willing, and able M/WBE firms. Among these were unequal access to capital, good old boy networks, a bias in favor of incumbent non-minority firms over similarly qualified M/WBE firms on the part of SWA selection panels, ineffectiveness of a race-neutral SBE program since 2012 in eliminating M/WBE utilization disparities, unnecessarily restrictive bid specifications, fraudulent reporting by some primes of M/WBE participation on SWA contracts, and passive participation by SWA staff in private sector discrimination against M/WBE firms through continued use of primes that have improperly excluded M/WBE subcontractors from contract opportunities.
3. In April 2018, the governing Board approved several administrative reforms and amendments to SWA's SBE program intended to strengthen and improve the effectiveness of the SBE program in enhancing M/WBE participation in SWA contracts. Moreover, a business stakeholder group was appointed and convened by the Authority for purposes of deliberating over the course of five meetings for the purpose of considering the efficacy and justification for a broad array of proposed race- and gender-neutral and race- and gender-conscious policy options and remedial program elements.

4. In June 2018, feedback from the stakeholder meetings was presented to the Board to aid in its deliberations regarding appropriately narrowly tailored program elements to address barriers to M/WBE contract participation identified by the Study and public comment. This feedback was summarized in the form of a chart reflecting prioritization rankings by the stakeholders for each policy option considered, and a revised Policy Option Matrix document. The Policy Option Matrix outlined proposed program elements and features, factual justifications for each such program element and feature, and pros and cons to be considered in the practical implementation of such remedies.

5. Based upon the totality of this factual predicate, including independent consultant critiques of the strengths and weaknesses of the Disparity Study and the appropriateness of reliance upon its findings and recommendations, the Board determined that the strength of that evidence was sufficient to proceed with policy deliberations. On June 20, 2018, the SWA Board concluded its lengthy deliberations regarding remedial relief through its approval of this Equal Business Opportunity Program.

B. Program Objectives

1. This Policy, and the SWA Purchasing Manual procedures established pursuant to this Policy, shall serve the Authority's compelling interest to remedy the various ongoing effects of marketplace discrimination against S/M/WBEs that are ready, willing, and able to sell goods and services to the Authority.

2. The narrowly-tailored remedial efforts established in this Policy are designed to promote greater availability, capacity development, and contract participation by S/M/WBEs in SWA contracts, and in doing so, enhance competition to the benefit of SWA's ratepayers and customers.

3. This Policy is intended, in part, to further the Authority's compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and to actively promote equal opportunity for all segments of the contracting and business community to participate in SWA contracts.

4. The Authority shall resort to the use of race- and gender-conscious means for addressing disparities within the realm of its contracting only when it is apparent that the use of race- and gender-neutral means alone will likely be insufficient to remedy the effects of identified discrimination.

5. Having found that it has a compelling governmental interest to remedy the effects of discrimination upon Authority contracts, the Board directs the Executive Director or designee, the Director of Purchasing or designee, and the EBO Program Coordinator or designee to collaborate in periodically recommending to the Board possible future amendments necessary to fully effectuate the purposes and objectives established in this Policy. Such proposed amendments shall also be narrowly-tailored in accordance with applicable law, and the specific barriers to S/MWBE participation identified within the SWA’s factual predicate as described above in Section 6.4.A. of this Policy.

6. It is the policy of the Authority to take all necessary, reasonable, and legal action to prevent
discrimination and to ensure that all businesses, including S/M/WBEs, are afforded the maximum practicable opportunity to participate in the Authority's purchasing and contracting processes.

7. As referenced in Section 6.3, it is the policy of the Board to ensure that the firms it engages in business with do not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall any such firms retaliate against any person for reporting instances of such discrimination. The firms shall provide equal opportunity for subcontractors.

8. The EBO Office shall have primary oversight responsibility with the full support and cooperation of all other Authority offices and departments in the administration of the EBO Program, as well as in the administration of other economic inclusion policies contained in the Purchasing Manual.

C. Scope and Exclusions

1. This EBO Program shall apply to all solicitations and awards of contracts for the purchase of services, goods, or supplies that are awarded by, or on behalf of, the SWA; including, but not limited to, every contract or other agreement between the SWA and any governmental agency, quasi-governmental agency, corporation, vendor, or contractor, under which the agency, corporation, vendor, or contractor directly or indirectly receives any fiscal assistance or remuneration from the Authority for the purpose of contracting with businesses to perform construction, professional services, commodities, other services, or trade services contracts, or for the purpose of directly or indirectly purchasing goods or services for use by the Authority. As such, the SWA shall require the agency, corporation, vendor, or contractor to comply with this Policy in the solicitation, the award, and administration of that contract or agreement, provided; however, that the following categories of contracts shall be excluded from the scope and application of this Policy:

   a. Contracts for the purchase of goods or services of a unique nature for which the Authority's Purchasing Department determines and confirms there is only a sole source of supply;
   b. Contracts for electricity or water and sewage services from a municipal utility district or governmental agency;
   c. Emergency contracts for goods or supplies that the Executive Director or designee determines are necessary for the preservation of public health or safety and whose immediacy of need is so great that it is impractical for the Authority to apply the terms of this EBO Program to the contract;
   d. Contracts for the Authority's lease or purchase of real property where SWA is lessee or purchaser; and
   e. Contracts for personal services involving the unique abilities or style of a particular individual.

D. Administrative Reforms

In furtherance of the objectives of this Economic Inclusion Policy and the EBO Program, the Executive Director or designee shall be responsible for implementing the following procurement policy reforms and non-industry-specific remedies to address ongoing effects of discrimination that adversely affect M/WBE access to public and private sector contracting opportunities and that will further facilitate the efficient implementation and successful enforcement of the EBO Program:

1. Solicitation Specification Review

   Each Formal Solicitation issued by the Authority shall be referred to the Equal Business Opportunity ("EBO") Office and the Director of Purchasing in advance of publication to determine whether it
contains any specifications that may unnecessarily restrict competition or adversely impact the ability of SBE firms to respond or participate as subcontractors. If such objectionable specifications (including brand name specifications as referenced in Sections 3.2 and 3.3) are identified through this review process, the Director of Purchasing, the Coordinator, or designee of the EBO Office, and the Project Manager for the Originating Department shall seek consensus in developing an acceptable modification to the specification. In the event consensus cannot be reached, the Executive Director or designee shall make a final determination regarding the proposed modifications to the specification.

2. Respondent De-briefings

For any contract in which the S/M/WBE has undertaken a Formal Solicitation and subsequent evaluation of responses in accordance with a “Best Value Contracting” method of procurement, the Director or Manager of the department issuing the solicitation, or of the department on whose behalf the solicitation was issued, or their designees, shall provide a de-briefing to any non-recommended Respondent, upon request. At a minimum, debriefings shall include disclosures of scoring criteria and scores from the evaluation panel responsible for making the selection for each response that was evaluated. To the extent possible, the de-briefing should also identify for each non-recommended Respondent those areas where its submittal was not as competitive as others, with an explanation as to why. Bid solicitation language and the EBO Office shall encourage disappointed Respondent bidders to avail themselves of such bid-debriefing opportunities.

3. Administrative Strategies / De-bundling

Each Formal Solicitation issued by the Authority shall be referred to the EBO Office in advance of publication to determine whether it contains any specifications that may unnecessarily restrict competition or adversely impact the ability of S/M/WBE firms to respond or participate as subcontractors. Such review shall also consider whether it is feasible to de-bundle the contract by reducing the size of the procurement or contract to maximize participation opportunities for S/M/WBE prime contractors and subcontractors without imposing undue costs or administrative burdens upon the Authority. If such objectionable specifications are identified through this review process, the Coordinator of the EBO Office, the Director of Purchasing, and the contracting officer for the Originating Department, shall seek consensus in developing an acceptable modification to the specification. In the event consensus cannot be reached, the Executive Director or designee shall make a final determination regarding the proposed modifications to the specification.

4. SWA Staff Training (EBO Program Procedures and Responsibilities)

The latest version of EBO Program Procedures and Responsibilities as set forth in this Purchasing Manual shall be promptly disseminated and distributed to all SWA personnel that are in any way involved in the procurement solicitation, selection, and award processes; vendor/contractor/bidder recruitment, outreach, and centralized bidder registration; vendor/contractor contract compliance and contract monitoring, invoice processing, and reporting requirements of these Economic Inclusion policies. On no less than an annual basis, the EBO Office shall be responsible for providing formal training to appropriate SWA management and staff regarding roles and responsibilities established under the EBO Program. As appropriate, the elements of these roles and responsibilities shall be incorporated into SWA personnel job descriptions and personnel job performance evaluations.

5. Subcontract Remedies (Mobilization / Working Capital / Direct Payments)

The Executive Director, in collaboration with the Coordinator of EBO, the Chief Financial Officer, and the Director of Purchasing, shall establish and convene a work group of SWA personnel to research, explore, and recommend a variety of options for better addressing the working capital needs of
S/M/WBE firms on Authority prime contracts and subcontracts. Such options shall include, but not be limited to, models for providing initial start-up mobilization fees to prime contractors and subcontractors in advance of first-phase contract performance; revolving working capital funds administered by third parties; direct payment by SWA of subcontractor invoices in limited circumstances (with approval of prime contractors); and assistance with, or facilitation of, fleet purchases or leases and acquisition of specialized equipment. The work group should conclude its research and present its findings and recommendations for consideration by the Executive Director by no later than the end of the calendar year.

6. Website Enhancement Strategies

The Executive Director shall establish a work group of SWA personnel to oversee and implement enhancements to the Authority's website to make it more user-friendly to business stakeholders and to enhance transparency regarding upcoming, ongoing, and past contract awards. Such website enhancements shall reflect the recommendations of the Disparity Study at pp. 12-27 through 12-30, and should also incorporate requirements from Section 22 of this Purchasing Manual on the establishment of the Centralized Bidder Registration System, and from Section 30 of this Purchasing Manual on Electronic Commerce.

7. Uniform Lead Time for Bid Submittals

In accordance with Section 2 of this Purchasing Manual, and in the interest of providing a fair opportunity for smaller firms to compete for SWA contracts, and for purposes of maximizing competition, absent emergency purchases necessary to protect public health or safety, all routine Requests for Quotations, Requests for Proposals, and other forms of bid solicitations shall have a closing date that is at least thirty calendar days after the date such bid solicitation is issued publicly.

8. Establish Ad Hoc Position for EBO Ombudsman (Mediation of Disputes)

The Executive Director shall appoint a senior staff person outside of the realm of purchasing and contract activity to serve as the EBO Ombudsman for purposes of mediating disputes between S/M/WBEs and prime contractors and vendors, and / or the EBO Office staff and other SWA departments. Any aggrieved S/M/WBE firm may seek the services of the EBO Ombudsman by filing a request through the EBO Office. The intent of the mediation process is to prevent small disputes from becoming costly legal disputes, and to seek reasonable resolution of such disputes that are satisfactory to all parties. Participation in such mediation efforts shall be voluntary, and must be agreed to by all parties. The purpose of such mediation is to help resolve disputes before they become major impediments to successful performance of SWA contracts. In selecting personnel or consultants to serve in this role of EBO Ombudsman, the Executive Director shall take into consideration the nature of the contract and the dispute, the neutrality and reputation of the potential ombudsman, and any specialized knowledge and skill sets that would be helpful at arriving at a fair and just resolution.

9. Expedited Payment Program

The Executive Director, in collaboration with the Coordinator of the EBO Office, the Chief Financial Officer, and the Director of Purchasing, shall establish and convene a work group of SWA personnel to research, explore, and recommend a variety of options for accelerating payment of invoices in ten days or less. Such options shall include consideration of incentives such as acceptance of percentage discount offers in contractor / vendor invoices that are paid by SWA within ten or fewer days of receipt. Streamlining of the invoice approval process shall also be part of focus of this work group. The intent of the Expedited Payment Program is to attract more bidders, enhance competition, and obtain lower prices on behalf of the SWA and its rate payers. The work group
should conclude its research and present its findings and recommendations for consideration by the Executive Director by no later than the end of the calendar year.

10. Disputed Invoices – Five Day Notice Requirement

In accordance with Section 1.5 A of this Purchasing Manual, within five days of the Authority’s receipt of any payment request or invoice from a contractor or vendor, Financial Services shall notify such contractor or vendor in writing regarding any and all deficiencies in its payment request or invoice that will prevent prompt processing and issuance of payment. To the extent there is an undisputed portion of the invoice that can be paid, the Authority shall proceed with prompt payment of that portion of the invoice.

11. Direct Owner Purchasing Program

Under this API, the Authority shall continue and expand its practice of directly purchasing large dollar item equipment and supply purchases for its construction, trade services, maintenance, or repair projects and contracts that are valued at $500,000 or less, (e.g., HVAC units, pumps, hoppers, incinerators, liners for landfills, scrubbers, sprinkler systems) so as to level the playing field for smaller contractors that may not be able to negotiate as low of a price with suppliers or vendors. In this way, contractors will not need to provide bonding for that portion of the contract that would normally require them to purchase those large dollar equipment and supply items. The Project Manager shall be responsible for establishing systems and procedures for the warehousing such items that are purchased directly by the Authority and for managing efficient and accountable delivery of the inventory of the purchased items to the correct job sites for installation by selected contractors.

E. Affirmative Procurement Initiatives

The Coordinator of the EBO Office or designee shall have the responsibility of evaluating bid solicitation documents at least fourteen days in advance of posting an advertisement or release of the bid solicitation to the public to determine which of the following APIs shall be applied to a given contract within a particular industry. The Director of Purchasing, in collaboration with the Coordinator of the EBO Office, and the General Counsel shall then be responsible for inserting the appropriate language in each bid solicitation to effectuate the application of the selected API to that bid solicitation in advance of its publication and release:

1. Construction Industry (Race-Neutral Remedies)

   a) Bond Waivers and Assistance Programs (R/N-14)

   The Executive Director shall establish a work group of SWA personnel to research, consider, and recommend a variety of “best practice” models from the State of Florida and across the nation for providing bond waivers and bonding assistance to S/M/WBE firms. Such models for purposes of research and consideration shall include, but not be limited to, technical assistance, Owner Controlled Insurance Programs (“OCIP”), bond premium cost reimbursements, and bond guarantee programs. The work group shall report its findings and recommendations to the Executive Director no later than the end of the calendar year.

   b) Direct Contracting Program for Small Contracts (R/N-15)

   Under this API, the Authority shall continue and expand its program for direct purchases of supplies in small construction contracts valued at $50,000 or less, thereby enhancing opportunities for S/M/WBE firms to bid successfully for work as prime contractors, and without
the necessity of having to bond the cost of those supplies that have been purchased and
inventoried directly by the Authority.

c) Small Business Enterprise Prime Contract Program (R/N-16)

Under this API, the Authority may reserve prime construction contracts valued at $50,000 or
less for competition solely among certified SBE firms. In determining whether the SBE Prime
Contracting Preference should be applied to a particular contract, the EBO Office shall consider:
a) the relative availability of SBEs, with a preference for at least three (3) SBEs that are likely to
bid as a Prime Contractor for the contract; and b) the degree of underutilization of the SBEs in
the specific Industry Categories. In addition, under this Program element, the Executive Director
or designee may elect to waive bonding on contracts valued under $200,000.

d) SBE Subcontracting Program (R/N-17)

The Board has established a minimum mandatory goal of 20% SBE participation for Authority
contracts, provided that the Equal Business Opportunity Office shall agree to a reasonable reduction
or waiver of this goal in instances where it can be factually demonstrated that there is inadequate
availability of SBE prime and / or subcontractor firms qualified to perform Commercially Useful
Functions that are valued at 20% of the total estimated dollar value of the Authority contract.
Prospective bidders shall be provided an adequate opportunity to formally request such waivers prior
to bid opening based upon submission of adequate Good Faith Efforts documentation as specified
by the EBO Office and as stated in bid solicitation language.

Under this API, the EBO Office shall, on a contract-specific basis, require that at least twenty percent
(20%) of the total value of a prime contract be subcontracted to eligible SBEs. Factors to be
considered by the EBO Office in making this determination shall include the relative availability of
SBE firms to perform Commercially Useful Functions on the specific contract.

A prospective Respondent, to an Authority bid solicitation for which price and scope are defined,
shall submit at the time as required in the solicitation such documentation as required by the EBO
Office that provides:

i. The name(s) of the SBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting
services to be provided by each SBE;

1. A description of the work that each SBE Subcontractor shall perform; and

2. Documentation confirming the Subcontractor's commitment to perform the work at the
stated price.

A prospective Respondent on an Authority bid solicitation for which Respondents are not initially
evaluated based on price, or for which the project scope is not predefined, shall submit as required
in the solicitation such documentation as required by the EBO Office to affirm its intent to meet the
subcontracting requirements indicated in the solicitation. Failure of a Respondent to commit as
required in the solicitation to satisfying the SBE subcontracting goal shall render its response non-
responsive.

During the price proposal negotiation phase, Respondents shall be required to submit:

i. Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting
services to be provided by each SBE;

iii. A description of the work that each SBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor’s commitment to perform the work at the stated price.

A Respondent may request a full or partial waiver of this mandatory subcontracting requirement for good cause by submitting the appropriate form(s) and documentation at the time as required in the solicitation. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the Respondent and careful review by the EBO Office. The EBO Office shall base its determination of a waiver request on criteria such as, but not limited to:

i. Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SBES;

ii. Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the scope of the contract; and

iii. Whether there are no certified SBE firms that are qualified and available to provide the goods or services required.

In the absence of a waiver granted by the EBO Office, failure of a Prime Contractor to commit as required in the solicitation to satisfying the SBE subcontracting goal shall render its response non-Responsive. Provided, however, that on any prime contract valued under $10 million, if the Prime Contractor is a certified SBE firm, then the Prime Contractor is allowed to self-perform up to the entire SBE subcontracting goal amount with its own forces. To the extent that the certified SBE Prime Contractor does not self-perform a portion of the SBE subcontracting goal, it shall be responsible for complying with all other requirements of this API for that portion of work that is subcontracted. This self-performance option for certified SBE Prime Contractors may be suspended at the discretion of the Coordinator of the EBO Office or designee in the event it determines that the adverse cumulative effect of the use of this self-performance option upon subcontractor opportunities is too great.

In the absence of a waiver granted by the EBO Office or the self-performance of a portion or all of the SBE subcontracting goal by a certified SBE Prime Contractor, the failure of a Prime Contractor to attain a subcontracting goal for SBE participation in the performance of its contract or otherwise comply with the provisions of this API shall be considered a material breach of contract, grounds for termination of that contract with the Authority, and shall be subject to any penalties and sanctions available under the terms of the Economic Inclusion Policy, its contract terms with the Authority, or by law.

A Prime Contractor is only permitted to substitute another subcontractor for a designated SBE subcontractor for cause, and is required to notify and obtain prior written approval from the EBO Office in advance of any such substitution of a designated SBE subcontractor, or reduction in subcontract scope, unless such reduction in scope is the direct and immediate result of an Authority-mandated change order or contract amendment, or the Authority has mandated the de-Certification, suspension, debarment, graduation or termination of a designated SBE Subcontractor. However, under such circumstances, the Prime Contractor shall undertake Good Faith Efforts to replace the de-certified, suspended, debarred, graduated or terminated SBE with one or more other certified SBE Subcontractors and shall submit a waiver request to the EBO Office in the event such Good Faith Efforts are unsuccessful.
Upon award of the prime contract to a Respondent, the Prime Contractor shall be required to submit accurate progress payment information with each invoice regarding each of its Subcontractors, including SBE Subcontractors. The Originating Department shall audit the reported payments to SBE and non-SBE Subcontractors to ensure that the Prime Contractor’s reported subcontract participation is accurate. Authority contracts with Prime Contractors shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida prompt payment laws, and such clauses shall mandate that in the event of a Prime Contractor’s non-compliance regarding such payments, the Prime Contractor shall be subject to any penalties and sanctions available under the terms of the Economic Inclusion Policy, its contract terms with the Authority, or by law.

e) SBE Mentor-Protégé Program (R/N-18)

The Executive Director shall establish a work group of SWA personnel and construction industry and surety industry stakeholders to research, consider, and recommend a variety of “best practice” models from the State of Florida and across the nation for mentor-protégé programs to facilitate the successful growth and competitive viability of S/M/WBE firms in the construction industry. Such models for purposes of research and consideration shall include, but not be limited to, programs that team up more established and successful construction firm mentors with less established SBE firms for purposes of providing management guidance and training; programs that provide incentives to mentor firms by reserving certain contracts for competition upon approved mentor-protégé teams; and also programs that provide other incentives to mentor-protégé teams such as accelerated payments, access to working capital funds, and direct purchasing of supplies by SWA on behalf of mentor-protégé teams. The work group shall report its findings and recommendations to the Executive Director no later than the end of the calendar year.

2. Construction Industry (Race-Conscious Remedies)

The EBO Office shall consider establishment of an overall M/WBE Annual Aspirational Goal in accordance with subsection ‘a’ below and, in addition, shall review each prospective Authority Construction Formal Solicitation in advance of its public release and advertisement, and shall make a determination whether to apply any of the other Race-Conscious APIs to those Construction solicitations based upon the following criteria:

i. Whether the most recent data on M/WBE utilization in the absence of Race-Conscious APIs indicate that Construction contracts of this type have exhibited significant disparities in the utilization of available M/WBE Subcontractors and/or M/WBE Prime Contractors;

ii. Whether race- and/or gender-neutral remedies alone are likely to fully eliminate any such disparities in the utilization of M/WBE Subcontractors and/or M/WBE Prime Contractors based upon past contract Award and Payment data;

iii. Whether a particular API is the least burdensome available remedy to non-M/WBE Respondents that is narrowly-tailored and that can effectively eliminate the disparities in the utilization of M/WBEs in Construction contracts; and

iv. Whether the particular API is appropriate for the specific type of Construction contract being procured. Whenever the EBO Office uses its discretion to apply any of the following Race-Conscious APIs to Construction solicitations, it shall provide an explanation in the solicitation documents of its reasons for doing so based upon its determinations pursuant to these criteria. In making such determinations, the EBO Office may also take into consideration the experiences of other jurisdictions.
within Palm Beach County for Construction services.

a) Annual Aspirational M/WBE Goals (R/C-5)

For each fiscal year, the Coordinator of the EBO Office shall establish non-mandatory annual aspirational percentage goals for overall M/WBE prime and subcontract participation on Authority Construction contracts.

The Annual Aspirational Goals for M/WBE prime contract participation in Authority Construction contracts have initially been established at 27% MBE and 13% WBE respectively of the total cumulative construction prime contract dollars to be awarded and spent on an annual basis, and at 24% MBE and 12% WBE respectively of the total cumulative construction subcontract dollars to be awarded and spent on an annual basis. These annual aspirational goals are based upon the M/WBE availability estimates by industry set forth in accordance with the Authority's 2017 Disparity Study findings.

Each Annual Aspirational Goal is to be reviewed on an annual basis for potential adjustment by the EBO Office based upon the M/WBE availability by industry segment in accordance with the Authority's 2017 Disparity Study findings, along with relative M/WBE availability data to be collected by the Authority through its CBR system, and the actual utilization of M/WBEs reflected therein.

Annual Aspirational Goals shall not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the EBO Program on an annual basis in addressing identified disparities, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and APIs being applied pursuant to this Policy.

Annual Aspirational Goals may be stated only in those Authority bid solicitations that do not contain contract-specific S/M/WBE goals and when provided, shall be advisory only, and must also be accompanied by the full definition of the term as stated in this Policy.

b) M/WBE Subcontracting Goals (R/C-6)

The Coordinator of the EBO Office or designee may, on a contract-by-contract basis, at his or her discretion, require that a predetermined percentage of a specific Construction contract, up to 40%, be subcontracted to eligible M/WBEs (i.e., certified M/WBE firms owned by African American, Hispanic American, Asian American, and/or Native American persons). Factors to be considered by the EBO Office in making this determination shall include the relative availability of M/WBE firms to perform Commercially Useful Functions on the specific contract weighted according to the relative dollar value of the construction sub-specialties available for subcontracting.

A prospective bidder on an Authority solicitation, for which price and scope are defined, shall submit at the time as required in the solicitation such documentation as required by the Authority that provides:

i. The name(s) of the M/WBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each M/WBE;

iii. A description of the work that each M/WBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor's commitment to perform the work at the stated price.
A prospective Respondent to an Authority solicitation, for which Respondents are not initially evaluated based on price, or for which project scope is not predefined, shall submit at the time as required in the solicitation such documentation as required by the Authority to affirm its intent to meet the subcontracting requirements indicated in the solicitation. In the absence of a waiver granted by the EBO Office, failure of a Respondent to commit as required in the solicitation to satisfying the M/WBE subcontracting goal shall render its response non-Responsive.

During the price proposal negotiation phase, Respondents shall be required to submit:

i. The name(s) of the M/WBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each M/WBE; and

iii. A description of the work that each M/WBE Subcontractor shall perform.

A Respondent may request a full or partial waiver of this mandatory subcontracting requirement for good cause by submitting the appropriate form(s) and documentation at the time as required in the solicitation. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the Respondent and careful review by the EBO Office. The EBO Office shall base its determination on a waiver request on criteria such as, but not limited to:

i. Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available M/WBEs;

ii. Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the scope of the contract; and

iii. Whether there are no certified M/WBE firms that are qualified and available to provide the goods or services required.

In the absence of a waiver granted by the EBO Office, failure of a Prime Contractor to commit as required in the solicitation to satisfying the M/WBE subcontracting goal shall render its response non-Responsive. Provided, however, that on any prime contract valued under $10 million, if the Prime Contractor is a certified M/WBE firm, then the Prime Contractor is allowed to self-perform up to the entire M/WBE subcontracting goal amount with its own forces. To the extent that the certified M/WBE Prime Contractor does not self-perform a portion of the M/WBE subcontracting goal, it shall be responsible for complying with all other requirements of this API for that portion of work that is subcontracted. This self-performance option for certified M/WBE Prime Contractors may be suspended at the discretion of the Coordinator of the EBO Office in the event he or she determines that the adverse cumulative effect of the use of this self-performance option upon subcontractor opportunities is too great.

In the absence of a waiver granted by the EBO Office, or the self-performance of a portion or all of the M/WBE subcontracting goal by a certified M/WBE Prime Contractor, the failure of a Prime Contractor to attain a subcontracting goal for M/WBE participation in the performance of its contract or otherwise comply with the provisions of this API shall be considered a material breach of contract, grounds for termination of that contract with the Authority and shall be subject to any penalties and sanctions available under the terms of the EBO Program, its contract with the Authority, or by law.
A Prime Contractor is required to notify and obtain prior written approval from the EBO Office Coordinator in advance of any reduction in subcontract scope, unless such reduction in scope is the direct and immediate result of an Authority-mandated change order or contract amendment, or the Authority has mandated the de-certification, suspension, graduation or termination of a designated M/WBE Subcontractor. However, under such circumstances, the Prime Contractor shall undertake Good Faith Efforts to replace the de-certified, suspended, graduated or terminated M/WBE Subcontractor(s) with one or more other certified M/WBE Subcontractor(s) and shall submit a waiver request to the EBO Office in the event such Good Faith Efforts are unsuccessful.

Upon award of the prime contract to a Respondent, the Prime Contractor shall be required to submit accurate progress payment information with each invoice regarding each of its Subcontractors, including S/M/WBE Subcontractors. The Originating Department shall audit the reported payments to S/M/WBE and non-S/M/WBE Subcontractor to ensure that the Prime Contractors' reported subcontract participation is accurate. Absent a waiver from the EBO Office, a Prime Contractor's failure to reach the required level of S/M/WBE subcontracting shall be considered a material breach of contract. Authority contracts with Prime Contractors shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida Prompt Payment Law, and such clauses shall mandate that in the event of Prime Contractor non-compliance regarding such payments, the Prime Contractor shall be subject to any penalties and sanctions available under the terms of the EBO Program, its contract with the Authority, or by law.

c) M/WBE Segmented Subcontracting Goals (R/C-7)

Under this API, the Coordinator of the EBO Program may establish M/WBE Segmented Subcontracting Goals on an individual Authority contract wherein an overall combined M/WBE goal is accompanied by subsets of one or more smaller goals that specifically target the participation of a particular segment of Minority Group Member segments or the WBE segment based upon that segment's relative availability. Such segmented goals shall specifically target the participation of a particular segment of business enterprises owned and controlled by women or certain Minority Group Members (e.g., African-Americans, Hispanic-Americans, Asian-Americans, or Native Americans) based upon relative availability, as well as the existence of consistently and significantly greater patterns of underutilization and disparity within an industry as compared to other gender and Minority Group Member categories of M/WBEs. (For example, if an overall M/WBE subcontracting goal is set at 22% on a given contract, the segmented subcontracting goal may require that at least 7% of that 22% shall be satisfied through the utilization of African American and Hispanic subcontractors.) The application of Segmented M/WBE Subcontracting Goals is intended to ensure that those segments of M/WBEs that have been most significantly and persistently underutilized receive a fair measure of remedial assistance. In all other respects, M/WBE Segmented Subcontracting Goals shall operate in the same manner as the M/WBE Subcontracting Goals set forth in this EBO Program.

d) M/WBE Joint Venture Incentive (R/C-8)

Under this API, for contracts valued at $600,000 or less, the Coordinator may establish incentives to promote joint ventures between larger established firms and M/WBE firms, or between and among SBE and M/WBE firms. For “best value” contracts wherein low price is not the only criterion for award, the incentive may be for up to fifteen percent (15%) of one hundred evaluation points to be reserved for qualifying M/WBE joint ventures wherein the certified M/WBE joint venture partner owns 50% or greater, and performs 50% or greater of the work, of the overall joint venture. Proportionately fewer evaluation preference points would be awarded to the joint venture based upon lesser percentages of ownership by the M/WBE partner. Alternatively, incentives may include bonding waivers, assignment of multiple task orders on job order contracts totaling up to $600,000 in value, and accelerated payments or mobilization payments to be afforded to qualifying M/WBE joint ventures. This API should be reserved for those occasions wherein there are sufficient numbers of qualified M/WBE firms available of sufficient size to meaningfully joint venture for purposes of performing larger contracts. Another consideration for application of this API is whether there are larger non-local M/WBE
firms, or larger M/WBE firms that may have graduated from eligibility for the program, that are available and willing to joint venture with certified smaller local M/WBEs for purposes of enhancing local capacity at the prime contract level.

A prospective M/WBE joint venture Respondent on such an Authority contracts shall submit in response to the solicitation such documentation as required by the Authority that includes, but is not limited to:

i. The names of the M/WBE joint venture and each of its partners that will participate on the contract;

ii. The percentage of Prime Contract dollars and the absolute dollar value of the services to be provided by the M/WBE joint venture partner; and

iii. A description of the work, management responsibilities, and other contributions that each joint venture partner shall perform or provide under the terms of its joint venture agreement.

e) M/WBE Mentor-Protégé Program (R/C-9)

The Executive Director shall establish a work group of SWA personnel and construction industry and surety industry stakeholders to research, consider, and recommend a variety of “best practice” models from the State of Florida and across the nation for mentor-protégé programs to facilitate the successful growth and competitive viability of S/M/WBE firms in the construction industry. Such models for purposes of research and consideration shall include, but not be limited to, programs that team up more established and successful construction firm mentors with less established M/WBE firms for purposes of providing management guidance and training; programs that provide incentives to mentor firms by reserving certain contracts for competition upon approved mentor-protégé teams; and also programs that provide other incentives to mentor-protégé teams such as accelerated payments, access to working capital funds, and direct purchasing of supplies by SWA on behalf of mentor-protégé teams. The work group shall report its findings and recommendations to the Executive Director no later than the end of the calendar year.

f) M/WBE Evaluation Preference for “Best Value” RFPs (R/C-10)

The Coordinator of the EBO Office may apply this API to Formal Solicitations for Authority bid solicitations that are issued pursuant to a “Best Value” method of procurement wherein criteria other than price are factored into the selection process. Under the terms of this Evaluation Preference, the Coordinator shall require that evaluation panels assign point preferences equal to up to 15% of the total points assigned for the evaluation, scoring and ranking of construction-related proposals submitted by those certified M/WBE firms.

An M/WBE that is awarded a prime contract under this program may not subcontract more than 49% of the contract value to a non-S/M/WBE firm. In determining whether a particular contract is eligible for this Program, the Coordinator shall consider: (a) the relative availability of S/M/WBEs, with the preference of at least three S/M/WBEs that are likely to bid as a Prime Contractor for the contract; and (b) the degree of underutilization of the S/M/WBEs in the specific Industry Categories.

3. Professional Services Industry (Race-Neutral Remedies)

a) SBE Vendor Rotation (Options 1 and 2) (R/N-19)

Under this API, there are two options for the selective use of a prequalified panel of SBE vendors by the Authority:

Option 1
For smaller Authority professional services contracts valued at $50,000 or less, a prequalified panel of SBE professional services firms may be assigned work tasks on a rotating basis. Periodically, the SBE Vendor Rotation list shall be re-ordered according to the firm with the least amount of dollars received to the most dollars received from the Authority based upon the cumulative dollars received within the past year.

**Option 2**

When the Authority requires price competition in its solicitations, and when quotations from several firms are required before award of contracts valued at $50,000 or less, solicitations for price quotations shall be obtained from the next three firms appearing in the SBE Vendor Rotation list of prequalified firms for that type of professional service. With each successive solicitation of quotations of this type, the list shall be rotated to the next group of three SBE vendors appearing in the rotation.

**b) Evaluation Preferences for New SBE Prime Bidders (R/N-20)**

Under this API, the Coordinator of the EBO Office shall establish point preferences in the evaluation of proposals for those first-time SBE entrants that are competing for Authority Professional Services contracts for up to one-year after submission of an SBE prime bidder’s first successful proposal with the Authority. Up to 15 percent (15%) of the total number of evaluation points allocated for selection of a professional services firm by the Authority shall be reserved for SBE prime bidders that have only received their first contract award with the Authority within the past year. One year after an new entrant SBE prime bidder has won its first Authority contract, it shall no longer be eligible to receive such evaluation preference points for new SBE prime bidders, but may remain eligible to receive other evaluation preference points reserved for SBE prime bidders that are not new. This API is intended to address the natural bias that has been identified on the part of some selection panels against smaller firms that are unknown and that have no prior track record with the Authority.

**c) SBE Reserve for Contracts Up to $5,000 and Required SBE Quotations for Informal Solicitations Up to $50,000 (R/N-21)**

Under this API, the Coordinator for the EBO Office may reserve some small professional services contracts valued at less than $5,000 exclusively for competition among SBE professional services firms. For larger professional services contracts valued up to $50,000, the Authority shall require at least two to three quotations from SBE professional services firms.

**d) SBE Evaluation Preference for Prime Bidders (R/N-22)**

Under this API, there are three options available for the Coordinator of the EBO Office to enhance contract opportunities for SBE Prime Bidders on “best value” professional services contracts where low bid price is not the only consideration in contract award:

**Option 1**

An evaluation preference of 15 percent of all available evaluation points in the scoring of proposals shall be reserved for those new SBE prime bidders that have not previously been awarded prime contracts with the Authority. Such SBE firms shall continue to be eligible for this evaluation preference for up to one year after receiving their first Authority contract through this API. This API is intended to counteract the natural bias that has been identified in the Disparity Study for some evaluation panels to prefer the selection of firms that are known and that they have had prior experience with.

**Option 2**
An SBE evaluation preference of up to 15 percent (15%) of the total number of available evaluation points for scoring of proposals shall be reserved for all SBE prime bidders on Authority professional services contracts valued at less than $500,000.

Option 3

Evaluation preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals to those firms bidding on professional services contracts valued at $500,000 or greater. The sliding scale shall be based upon the relative level of SBE dollar participation that has been committed to on the prime bidder’s team (e.g., zero SBE participation on a prime bidder’s team shall yield zero evaluation points, whereas the maximum SBE participation among all prime bidders, at the prime contract and subcontract levels combined, shall yield award of fifteen evaluation preference points out of 100; and a prime bidder’s team that achieves only half as many dollars in SBE participation as the firm with the greatest SBE dollar participation at the prime contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100).

e) SBE Subcontracting Goals for Professional Services (R/N-23)

The Board has established a minimum mandatory goal of 20% SBE participation for Authority contracts, provided that the Equal Business Opportunity Office shall agree to a reasonable reduction or waiver of this goal in instances where it can be factually demonstrated that there is inadequate availability of SBE prime and / or subcontractor firms qualified to perform Commercially Useful Functions that are valued at 20% of the total estimated dollar value of the Authority contract. Prospective bidders shall be provided an adequate opportunity to formally request such waivers prior to bid opening based upon submission of adequate Good Faith Efforts documentation as specified by the EBO Office and as stated in bid solicitation language.

Under this API, the EBO Office shall, on a contract-specific basis, require that at least twenty percent (20%) of the total value of a prime contract be subcontracted to eligible SBEs. Factors to be considered by the EBO Office in making this determination shall include the relative availability of SBE firms to perform Commercially Useful Functions on the specific contract.

A prospective Respondent, to an Authority bid solicitation for which price and scope are defined, shall submit at the time as required in the solicitation such documentation as required by the EBO Office that provides:

i. The name(s) of the SBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each SBE;

iii. A description of the work that each SBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor’s commitment to perform the work at the stated price.

A prospective Respondent on an Authority bid solicitation for which Respondents are not initially evaluated based on price, or for which the project scope is not predefined, shall submit as required in the solicitation such documentation as required by the EBO Office to affirm its intent to meet the subcontracting requirements indicated in the solicitation. Failure of a Respondent to commit as required in the solicitation to satisfying the SBE subcontracting goal shall render its response non-responsive.

During the price proposal negotiation phase, Respondents shall be required to submit:
i. The name(s) of the SBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each SBE;

iii. A description of the work that each SBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor's commitment to perform the work at the stated price.

A Respondent may request a full or partial waiver of this mandatory subcontracting requirement for good cause by submitting the appropriate form(s) and documentation at the time as required in the solicitation. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the Respondent and careful review by the EBO Office. The EBO Office shall base its determination of a waiver request on criteria such as, but not limited to:

i. Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SBEs;

ii. Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the scope of the contract; and

iii. Whether there are no certified SBE firms that are qualified and available to provide the goods or services required.

In the absence of a waiver granted by the EBO Office, failure of a Prime Contractor to commit as required in the solicitation to satisfying the SBE subcontracting goal shall render its response non-Responsive. Provided, however, that on any prime contract valued under $10 million, if the Prime Contractor is a certified SBE firm, then the Prime Contractor is allowed to self-perform up to the entire SBE subcontracting goal amount with its own forces. To the extent that the certified SBE Prime Contractor does not self-perform a portion of the SBE subcontracting goal, it shall be responsible for complying with all other requirements of this API for that portion of work that is subcontracted. This self-performance option for certified SBE Prime Contractors may be suspended at the discretion of the Coordinator of the EBO Office or designee in the event it determines that the adverse cumulative effect of the use of this self-performance option upon subcontractor opportunities is too great.

In the absence of a waiver granted by the EBO Office or the self-performance of a portion or all of the SBE subcontracting goal by a certified SBE Prime Contractor, the failure of a Prime Contractor to attain a subcontracting goal for SBE participation in the performance of its contract or otherwise comply with the provisions of this API shall be considered a material breach of contract, grounds for termination of that contract with the Authority, and shall be subject to any penalties and sanctions available under the terms of the Economic Inclusion Policy, its contract terms with the Authority, or by law.

A Prime Contractor is only permitted to substitute another subcontractor for a designated SBE subcontractor for cause, and is required to notify and obtain prior written approval from the EBO Office in advance of any such substitution of a designated SBE subcontractor, or reduction in subcontract scope, unless such reduction in scope is the direct and immediate result of an Authority-mandated change order or contract amendment, or the Authority has mandated the de-Certification, suspension, debarment, graduation or termination of a designated SBE Subcontractor. However, under such circumstances, the Prime Contractor shall undertake Good Faith Efforts to replace the de-certified, suspended, debarred, graduated or terminated SBE with one or more other certified SBE Subcontractors and shall submit a waiver request to the EBO Office in the event such Good Faith Efforts are unsuccessful.

Upon award of the prime contract to a Respondent, the Prime Contractor shall be required to submit accurate progress
payment information with each invoice regarding each of its Subcontractors, including SBE Subcontractors. The Originating Department shall audit the reported payments to SBE and non-SBE Subcontractors to ensure that the Prime Contractor’s reported subcontract participation is accurate. Authority contracts with Prime Contractors shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida prompt payment laws, and such clauses shall mandate that in the event of a Prime Contractor's non-compliance regarding such payments, the Prime Contractor shall be subject to any penalties and sanctions available under the terms of the Economic Inclusion Policy, its contract terms with the Authority, or by law.

4. Professional Services Industry (Race-Conscious Remedies)

The EBO Office shall consider establishment of an overall M/WBE Annual Aspirational Goal in accordance with subsection ‘a’ below and, in addition, shall review each prospective Authority Professional Services Formal Solicitation in advance of its public release and advertisement, and shall make a determination whether to apply any of the other Race-Conscious APIs to those Professional Services solicitations based upon the following criteria:

i. Whether the most recent data on M/WBE utilization in the absence of Race-Conscious APIs indicate that Professional Services contracts of this type have exhibited significant disparities in the utilization of available M/WBE Subcontractors and/or M/WBE Prime Contractors;

ii. Whether race- and/or gender-neutral remedies alone are likely to fully eliminate any such disparities in the utilization of M/WBE Subcontractors and/or M/WBE Prime Contractors based upon past contract Award and Payment data;

iii. Whether a particular API is the least burdensome available remedy to non-M/WBE Respondents that is narrowly-tailored and that can effectively eliminate the disparities in the utilization of M/WBEs in Professional Services contracts; and

iv. Whether the particular API is appropriate for the specific type of Professional Services contract being procured. Whenever the EBO Office uses its discretion to apply any of the following Race-Conscious APIs to Professional Services solicitations, it shall provide an explanation in the solicitation documents of its reasons for doing so based upon its determinations pursuant to these criteria. In making such determinations, the EBO Office may also take into consideration the experiences of other jurisdictions within Palm Beach County for Professional services.

a) Annual Aspirational M/WBE Goals (R/C-11)

For each fiscal year, the Coordinator of the EBO Office shall establish non-mandatory annual aspirational percentage goals for overall M/WBE prime and subcontract participation on Authority Professional Services contracts.

The Annual Aspirational Goals for M/WBE prime contract participation in Authority Professional Services contracts have initially been established at 27% MBE and 19% WBE respectively of the total cumulative professional services prime contract dollars to be awarded and spent on an annual basis, and at 26% MBE and 19% WBE respectively of the total cumulative professional services subcontract dollars to be awarded and spent on an annual basis. These annual aspirational goals are based upon the M/WBE availability estimates by industry set forth in accordance with the Authority’s 2017 Disparity Study findings.

Each Annual Aspirational Goal is to be reviewed on an annual basis for potential adjustment by the EBO Office based upon the M/WBE availability by industry segment in accordance with the Authority’s 2017 Disparity Study findings, along with relative M/WBE availability data to be collected by the Authority through its CBR system, and the actual utilization of M/WBEs reflected therein.

Annual Aspirational Goals shall not be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the EBO Program on an annual basis in addressing
identified disparities, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and APIs being applied pursuant to this Policy.

Annual Aspirational Goals may be stated only in those Authority bid solicitations that do not contain contract-specific S/M/WBE goals, and when provided, shall be advisory only, and must also be accompanied by the full definition of the term as stated in this Policy.

b) M/WBE Evaluation Preferences for Professional Services (R/C-12)

Evaluation preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals to those firms bidding on professional services contracts. The sliding scale shall be based upon the relative level of M/WBE dollar participation that has been committed to on the prime bidder’s team (e.g., zero M/WBE participation on a prime bidder’s team shall yield zero evaluation points, whereas the proposal from the prime bidder that proposes achieving the maximum M/WBE participation among all prime bidders, at the prime contract and subcontract levels combined, shall yield award of fifteen evaluation preference points out of 100 to that bidder; and a prime bidder’s team that achieves only half as many dollars in M/WBE participation as the firm with the greatest M/WBE dollar participation at the prime contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100).

c) M/WBE Subcontracting Goals for Professional Services (R/C-13)

The Coordinator of the EBO Office or designee may, on a contract-by-contract basis, at his or her discretion, require that a predetermined percentage of a specific Professional Services contract, up to 40%, be subcontracted to eligible M/WBEs (i.e., certified M/WBE firms owned by African American and Caucasian women persons). Factors to be considered by the EBO Office in making this determination shall include the relative availability of M/WBE firms to perform Commercially Useful Functions on the specific contract weighted according to the relative dollar value of the construction sub-specialties available for subcontracting.

A prospective bidder on an Authority solicitation, for which price and scope are defined, shall submit at the time as required in the solicitation such documentation as required by the Authority that provides:

   i. The name(s) of the M/WBE Subcontractor(s) it intends to use on the project;

   ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each M/WBE;

   iii. A description of the work that each M/WBE Subcontractor shall perform; and

   iv. Documentation confirming the Subcontractor’s commitment to perform the work at the stated price.

A prospective Respondent to an Authority solicitation, for which Respondents are not initially evaluated based on price, or for which project scope is not predefined, shall submit at the time as required in the solicitation such documentation as required by the Authority to affirm its intent to meet the subcontracting requirements indicated in the solicitation. In the absence of a waiver request granted by the EBO Office, failure of a Respondent to commit as required in the solicitation to satisfying the M/WBE subcontracting goal shall render its response non-Responsive.

During the price proposal negotiation phase, Respondents shall be required to submit:

   i. The name(s) of the M/WBE Subcontractor(s) it intends to use on the project;
ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each M/WBE; and

iii. A description of the work that each M/WBE Subcontractor shall perform.

A Respondent may request a full or partial waiver of this mandatory subcontracting requirement for good cause by submitting the appropriate form(s) and documentation at the time as required in the solicitation. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the Respondent and careful review by the EBO Office. The EBO Office shall base its determination on a waiver request on criteria such as, but not limited to:

i. Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available M/WBEs;

ii. Whether subcontracting would be inappropriate and/or not provide a "Commercially Useful Function" under the scope of the contract; and

iii. Whether there are no certified M/WBE firms that are qualified and available to provide the goods or services required.

In the absence of a waiver granted by the EBO Office, failure of a Prime Contractor to commit as required in the solicitation to satisfying the M/WBE subcontracting goal shall render its response non-Responsive. Provided, however, that on any prime contract valued under $1 million, if the Prime Contractor is a certified M/WBE firm, then the Prime Contractor is allowed to self-perform up to the entire M/WBE subcontracting goal amount with its own forces. To the extent that the certified M/WBE Prime Contractor does not self-perform a portion of the M/WBE subcontracting goal, it shall be responsible for complying with all other requirements of this API for that portion of work that is subcontracted. This self-performance option for certified M/WBE Prime Contractors may be suspended at the discretion of the Coordinator of the EBO Office in the event he or she determines that the adverse cumulative effect of the use of this self-performance option upon subcontractor opportunities is too great.

In the absence of a waiver granted by the EBO Office, or the self-performance of a portion or all of the M/WBE subcontracting goal by a certified M/WBE Prime Contractor, the failure of a Prime Contractor to attain a subcontracting goal for M/WBE participation in the performance of its contract or otherwise comply with the provisions of this API shall be considered a material breach of contract, grounds for termination of that contract with the Authority and shall be subject to any penalties and sanctions available under the terms of the EBO Program, its contract with the Authority, or by law.

A Prime Contractor is required to notify and obtain prior written approval from the EBO Office Coordinator in advance of any reduction in subcontract scope, unless such reduction in scope is the direct and immediate result of an Authority-mandated change order or contract amendment, or the Authority has mandated the de-Certification, suspension, graduation or termination of a designated M/WBE Subcontractor. However, under such circumstances, the Prime Contractor shall undertake Good Faith Efforts to replace the de-certified, suspended, graduated or terminated M/WBE Subcontractor(s) with one or more other certified M/WBE Subcontractor(s) and shall submit a waiver request to the EBO Office in the event such Good Faith Efforts are unsuccessful.

Upon award of the prime contract to a Respondent, the Prime Contractor shall be required to submit accurate progress payment information with each invoice regarding each of its Subcontractors, including S/M/WBE Subcontractors. The Originating Department shall audit the reported payments to S/M/WBE and non-S/M/WBE Subcontractor to ensure that the Prime Contractors' reported subcontract participation is accurate. Absent a waiver from the EBO Office, a Prime Contractor's failure to reach the required level of S/M/WBE subcontracting shall be considered a material breach of contract. Authority contracts with Prime Contractors shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida Prompt Payment Law, and such clauses shall mandate that in the event of
Prime Contractor non-compliance regarding such payments, the Prime Contractor shall be subject to any penalties and sanctions available under the terms of the EBO Program, its contract with the Authority, or by law.

d) M/WBE Segmented Subcontracting Goals for Professional Services (R/C-13A)

Under this API, the Coordinator of the EBO Program may establish M/WBE Segmented Subcontracting Goals on an individual Authority contract wherein an overall combined M/WBE goal is accompanied by subsets of one or more smaller goals that specifically target the participation of a particular segment of Minority Group Member segments or the WBE segment based upon that segment’s relative availability. Such segmented goals shall specifically target the participation of a particular segment of business enterprises owned and controlled by women or certain Minority Group Members (e.g., African-Americans and Caucasian women) based upon relative availability, as well as the existence of consistently and significantly greater patterns of underutilization and disparity within an industry as compared to other gender and Minority Group Member categories of M/WBEs. (For example, if an overall M/WBE subcontracting goal is set at 22% on a given contract, the segmented subcontracting goal may require that at least 7% of that 22% shall be satisfied through the utilization of African American and Women subcontractors.) The application of Segmented M/WBE Subcontracting Goals is intended to ensure that those segments of M/WBEs that have been most significantly and persistently underutilized receive a fair measure of remedial assistance. In all other respects, M/WBE Segmented Subcontracting Goals shall operate in the same manner as the M/WBE Subcontracting Goals set forth in this EBO Program.

e) M/WBE Vendor Rotation (R/C-14)

Under this API, there are two options for the selective use of a prequalified panel of M/WBE vendors by the Authority:

Option 1

For smaller Authority professional services contracts valued at $50,000 or less, a prequalified panel of M/WBE professional services firms may be assigned work tasks on a rotating basis. Periodically, the M/WBE Vendor Rotation list shall be re-ordered according to the firm with the least amount of dollars received to the most dollars received from the Authority based upon the cumulative dollars received within the past year.

Option 2

When the Authority requires price competition in its solicitations, and when quotations from several firms are required before award of contracts valued at $50,000 or less, solicitations for price quotations shall be obtained from the next three firms appearing in the M/WBE Vendor Rotation list of prequalified firms for that type of professional service. With each successive solicitation of quotations of this type, the list shall be rotated to the next group of three M/WBE vendors appearing in the rotation.

f) Required M/WBE Quotations for Informal Solicitations Up to $50,000 (R/C-15)

Under this API, the Coordinator of the EBO Office shall require that on informal solicitations for Professional Services contracts valued at up to $50,000, at least two or three quotations shall be obtained from M/WBE Professional Services firms prior to contract awards.

5. Commodities, Other Services, & Trade Services Industries (Race-Neutral Remedies)

a) SBE Vendor Rotation (R/N-24)

Under this API, there are two options for the selective use of a prequalified panel of SBE vendors by the Authority:
Option 1

For smaller Authority Commodities, Other Services, and Trade Services contracts valued at $50,000 or less, a prequalified panel of SBE Commodities, Other Services, and Trade Services firms may be assigned work tasks on a rotating basis. Periodically, the SBE Vendor Rotation list shall be re-ordered according to the firm with the least amount of dollars received to the most dollars received from the Authority based upon the cumulative dollars received within the past year.

Option 2

When the Authority requires price competition in its solicitations, and when quotations from several firms are required before award of contracts valued at $50,000 or less, solicitations for price quotations shall be obtained from the next three firms appearing in the SBE Vendor Rotation list of prequalified firms for that type of professional service. With each successive solicitation of quotations of this type, the list shall be rotated to the next group of three SBE vendors appearing in the rotation.

b) SBE Reserve for Contracts Up to $5,000 and Required SBE Quotations for Informal Solicitations Up to $50,000 (R/N-25)

Under this API, the Coordinator for the EBO Office may reserve some small Commodities, Other Services, and Trade Services contracts valued at less than $5,000 exclusively for competition among SBE Commodities, Other Services, and Trade Services firms. For Commodities, Other Services, and Trade Services valued up to $50,000, the Authority shall require at least two to three quotations from SBE Commodities, Other Services, and Trade Services firms.

c) Direct Contracting for Other Services and Trade Services (R/N-26)

Under this API, the Authority shall continue and expand its program for direct purchases of certain Other Services and Trade Services (e.g., certain non-professional services such as trucking, landscaping, janitorial services and site clean-up) that are typically bundled into much larger construction and building maintenance contracts thereby enhancing opportunities for S/M/WBE firms to bid successfully for work as prime contractors, and without the necessity of having to bond the cost of related supplies that have been purchased and inventoried directly by the Authority.

d) SBE Evaluation Preference for Prime Bidders (R/N-27)

Under this API, there are three options available for the Coordinator of the EBO Office to enhance contract opportunities for SBE Prime Bidders on “best value” Other Services and Trade Services contracts where low bid price is not the only consideration in contract award:

Option 1

An evaluation preference of 15 percent of all available evaluation points in the scoring of proposals shall be reserved for those new SBE prime bidders that have not previously been awarded prime contracts with the Authority. Such SBE firms shall continue to be eligible for this evaluation preference for up to one year after receiving their first Authority contract through this API. This API is intended to counteract the natural bias that has been identified in the Disparity Study for some evaluation panels to prefer the selection of firms that are known and that they have had prior experience with.

Option 2

An SBE evaluation preference of up to 15 percent (15%) of the total number of available evaluation points for scoring of proposals shall be reserved for all SBE prime bidders on Authority Other Services and Trade Services contracts valued at less than $500,000.
Option 3

Evaluation preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals to those firms bidding on Other Services and Trade Services contracts valued at $500,000 or greater. The sliding scale shall be based upon the relative level of SBE dollar participation that has been committed to on the prime bidder’s team (e.g., zero SBE participation on a prime bidder’s team shall yield zero evaluation points, whereas the maximum SBE participation among all prime bidders, at the prime contract and subcontract levels combined, shall yield award of fifteen evaluation preference points out of 100; and a prime bidder's team that achieves only half as many dollars in SBE participation at the prime and subcontract levels combined as the firm with the greatest SBE dollar participation at the prime contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100).

e) SBE Joint Venture Incentives for Other Services / Trade Services (R/N-28)

Under this API, for contracts valued at greater than $5 million, the Coordinator of the EBO Office may establish incentives to promote joint ventures between larger established firms and SBE firms, or between and among SBE and M/WBE firms. For “best value” contracts wherein low price is not the only criterion for award, the incentive may be for up to fifteen percent (15%) of one hundred evaluation points to be reserved for qualifying S/M/WBE joint ventures wherein the certified SBE joint venture partner owns 50% or greater, and performs 50% or greater of the work, of the overall joint venture. Proportionately fewer evaluation preference points would be awarded to the joint venture based upon lesser percentages of ownership by the SBE partner. Alternatively, incentives may include bonding waivers, assignment of multiple task orders on job order contracts totaling up to $1,000,000 in value, and accelerated payments or mobilization payments to be afforded to qualifying S/M/WBE joint ventures. This API should be reserved for those occasions wherein there are sufficient numbers of qualified S/M/WBE firms available of sufficient size to meaningfully joint venture for purposes of performing larger contracts. Another consideration for application of this API is whether there are larger non-local S/M/WBE firms, or larger S/M/WBE firms that may have graduated from eligibility for the program, that are available and willing to joint venture with certified smaller local SBEs for purposes of enhancing local capacity at the prime contract level.

A prospective SBE joint venture Respondent on such an Authority contract shall submit in response to the solicitation such documentation as required by the Authority that includes, but is not limited to:

   i. The names of the S/M/WBE joint venture and each of its partners that will participate on the contract;

   ii. The percentage of Prime Contract dollars and the absolute dollar value of the services to be provided by the SBE joint venture partner; and

   iii. A description of the work, management responsibilities, and other contributions that each joint venture partner shall perform or provide under the terms of its joint venture agreement.

f) SBE Subcontracting Goals for Other Services / Trade Services Contracts Valued at Greater Than $5 Million (R/N-29)

The Board has established a minimum mandatory goal of 20% SBE participation for Authority contracts, provided that the Equal Business Opportunity Office shall agree to a reasonable reduction or waiver of this goal in instances where it can be factually demonstrated that there is inadequate availability of SBE prime and / or subcontractor firms qualified to perform Commercially Useful Functions that are valued at 20% of the total estimated dollar value of the Authority contract. Prospective bidders shall be provided an adequate opportunity to formally request such waivers prior to bid opening based upon submission of adequate Good Faith Efforts documentation as specified by the EBO Office and as stated in bid solicitation language.

Under this API, the EBO Office shall, on a contract-specific basis, require that at least twenty percent (20%) of the total
value of a prime contract be subcontracted to eligible SBEs. Factors to be considered by the EBO Office in making this determination shall include the relative availability of SBE firms to perform Commercially Useful Functions on the specific contract.

A prospective Respondent, to an Authority bid solicitation for which price and scope are defined, shall submit at the time as required in the solicitation such documentation as required by the EBO Office that provides:

i. The name(s) of the SBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each SBE;

iii. A description of the work that each SBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor’s commitment to perform the work at the stated price.

A prospective Respondent on an Authority bid solicitation for which Respondents are not initially evaluated based on price, or for which the project scope is not predefined, shall submit as required in the solicitation such documentation as required by the EBO Office to affirm its intent to meet the subcontracting requirements indicated in the solicitation. Failure of a Respondent to commit as required in the solicitation to satisfying the SBE subcontracting goal shall render its response non-responsive.

During the price proposal negotiation phase, Respondents shall be required to submit:

i. The name(s) of the SBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each SBE;

iii. A description of the work that each SBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor’s commitment to perform the work at the stated price.

A Respondent may request a full or partial waiver of this mandatory subcontracting requirement for good cause by submitting the appropriate form(s) and documentation at the time as required in the solicitation. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the Respondent and careful review by the EBO Office. The EBO Office shall base its determination of a waiver request on criteria such as, but not limited to:

i. Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SBEs;

ii. Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the scope of the contract; and

iii. Whether there are no certified SBE firms that are qualified and available to provide the goods or services required.

In the absence of a waiver granted by the EBO Office, failure of a Prime Contractor to commit as required in the
solicitation to satisfying the SBE subcontracting goal shall render its response non-Responsive. Provided, however, that on any prime contract valued under $10 million, if the Prime Contractor is a certified SBE firm, then the Prime Contractor is allowed to self-perform up to the entire SBE subcontracting goal amount with its own forces. To the extent that the certified SBE Prime Contractor does not self-perform a portion of the SBE subcontracting goal, it shall be responsible for complying with all other requirements of this API for that portion of work that is subcontracted. This self-performance option for certified SBE Prime Contractors may be suspended at the discretion of the Coordinator of the EBO Office or designee in the event it determines that the adverse cumulative effect of the use of this self-performance option upon subcontractor opportunities is too great.

In the absence of a waiver granted by the EBO Office or the self-performance of a portion or all of the SBE subcontracting goal by a certified SBE Prime Contractor, the failure of a Prime Contractor to attain a subcontracting goal for SBE participation in the performance of its contract or otherwise comply with the provisions of this API shall be considered a material breach of contract, grounds for termination of that contract with the Authority, and shall be subject to any penalties and sanctions available under the terms of the Economic Inclusion Policy, its contract terms with the Authority, or by law.

A Prime Contractor is only permitted to substitute another subcontractor for a designated SBE subcontractor for cause, and is required to notify and obtain prior written approval from the EBO Office in advance of any such substitution of a designated SBE subcontractor, or reduction in subcontract scope, unless such reduction in scope is the direct and immediate result of an Authority-mandated change order or contract amendment, or the Authority has mandated the de-Certification, suspension, debarment, graduation or termination of a designated SBE Subcontractor. However, under such circumstances, the Prime Contractor shall undertake Good Faith Efforts to replace the de-certified, suspended, debarred, graduated or terminated SBE with one or more other certified SBE Subcontractors and shall submit a waiver request to the EBO Office in the event such Good Faith Efforts are unsuccessful.

Upon award of the prime contract to a Respondent, the Prime Contractor shall be required to submit accurate progress payment information with each invoice regarding each of its Subcontractors, including SBE Subcontractors. The Originating Department shall audit the reported payments to SBE and non-SBE Subcontractors to ensure that the Prime Contractor’s reported subcontract participation is accurate. Authority contracts with Prime Contractors shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida prompt payment laws, and such clauses shall mandate that in the event of a Prime Contractor’s non-compliance regarding such payments, the Prime Contractor shall be subject to any penalties and sanctions available under the terms of the Economic Inclusion Policy, its contract terms with the Authority, or by law.

6. Commodities, Other Services, & Trade Services Industries (Race-Conscious Remedies)

The EBO Office shall consider establishment of an overall M/WBE Annual Aspirational Goal in accordance with subsection ‘a’ below and, in addition, shall review each prospective Authority Commodities, Other Services, and Trade Services Formal Solicitation in advance of its public release and advertisement, and shall make a determination whether to apply any of the other Race-Conscious APIs to those Commodities, Other Services, and Trade Services solicitations based upon the following criteria:

i. Whether the most recent data on M/WBE utilization in the absence of Race-Conscious APIs indicate that Commodities, Other Services, and Trade Services contracts of this type have exhibited significant disparities in the utilization of available M/WBE Subcontractors and/or M/WBE Prime Contractors;

ii. Whether race- and/or gender-neutral remedies alone are likely to fully eliminate any such disparities in the utilization of M/WBE Subcontractors and/or M/WBE Prime Contractors based upon past contract Award and Payment data;

iii. Whether a particular API is the least burdensome available remedy to non-MWBE Respondents that is narrowly-tailored and that can effectively eliminate the disparities in the
iv. Whether the particular API is appropriate for the specific type of Commodities, Other Services, and Trade Services contract being procured. Whenever the EBO Office uses its discretion to apply any of the following Race-Conscious APIs to Commodities, Other Services, and Trade Services solicitations, it shall provide an explanation in the solicitation documents of its reasons for doing so based upon its determinations pursuant to these criteria. In making such determinations, the EBO Office may also take into consideration the experiences of other jurisdictions within Palm Beach County for Commodities, Other Services, and Trade Services contracts.

a) Annual Aspirational M/WBE Goals (R/C-16)

For each fiscal year, the Coordinator of the EBO Office shall establish non-mandatory annual aspirational percentage goals for overall M/WBE prime and subcontract participation on Authority Commodities, Other Services, and Trade Services contracts.

The Annual Aspirational Goals for M/WBE prime contract participation in Authority Commodities and Other Services contracts have initially been established at 17% MBE and 18% WBE respectively of the total cumulative Commodities and Other Services dollars to be awarded and spent on an annual basis, and at 16% MBE and 20% WBE respectively of the total cumulative Trade Services dollars to be awarded and spent on an annual basis. These annual aspirational goals are based upon the M/WBE availability estimates by industry set forth in accordance with the Authority’s 2017 Disparity Study findings.

Each Annual Aspirational Goal is to be reviewed on an annual basis for potential adjustment by the EBO Office based upon the M/WBE availability by industry segment in accordance with the Authority’s 2017 Disparity Study findings, along with relative M/WBE availability data to be collected by the Authority through its CBR system, and the actual utilization of M/WBEs reflected therein.

Annual Aspirational Goals shall not be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the EBO Program on an annual basis in addressing identified disparities, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and APIs being applied pursuant to this Policy.

Annual Aspirational Goals may be stated only in those Authority bid solicitations that do not contain contract-specific S/M/WBE goals, and when provided, shall be advisory only, and must also be accompanied by the full definition of the term as stated in this Policy.

b) M/WBE Vendor Rotation (R/C-17)

Under this API, there are two options for the selective use of a prequalified panel of M/WBE vendors by the Authority:

Option 1

For smaller Authority Other Services and Trade Services contracts valued at $50,000 or less, a prequalified panel of M/WBE Other Services or Trade Services firms may be assigned work tasks on a rotating basis. Alternatively, purchase orders for certain Commodities valued at $5,000 or less can be issued to M/WBE firms on vendor rotation list. Periodically, the M/WBE Vendor Rotation list shall be re-ordered according to the firm with the least amount of dollars received to the most dollars received from the Authority based upon the cumulative dollars received within the past year.

Option 2
When the Authority requires price competition in its solicitations, and when quotations from several firms are required before award of contracts valued at $50,000 or less, solicitations for price quotations shall be obtained from the next three firms appearing in the M/WBE Vendor Rotation list of prequalified firms for that type of Commodities, Other Services, or Trade Services contract. With each successive solicitation of quotations of this type, the list shall be rotated to the next group of three M/WBE vendors appearing in the rotation.

c) M/WBE Voluntary Distributorship Development Program (R/C-18)

The Coordinator of the EBO Office may apply this API to any solicitation and subsequent award for Commodities contracts that have a base term with contract extensions for the Authority’s purchase of goods or supplies when each of the following conditions has been met:

i. Manufacturers often sell such goods or supplies to the Authority indirectly through authorized distributorships or authorized dealers;

ii. One or more such manufacturers indirectly competing for such Authority supply requirements contracts have no such authorized distributorships or authorized dealers that are also certified as M/WBE firms, that are headquartered or have a Significant Business Presence within Palm Beach County, and available to sell such goods and supplies to the Authority;

iii. At least one manufacturer of such goods and supplies has established, or has agreed to establish, an authorized distributorship or authorized dealer that is certified as an M/WBE, is headquartered or has a Significant Business Presence in Palm Beach County through which the manufacturer has agreed to sell the goods or supplies to the Authority for the duration of the contract, including all of the contract’s option years;

iv. The EBO Office has examined the terms of the authorized distributorship or authorized dealer agreement entered into between the manufacturer and its certified M/WBE authorized distributorship or authorized dealer and determined that the M/WBE distributor or dealer is headquartered or has a Significant Business Presence in Palm Beach County, and determined that such terms are non-discriminatory in that the certified M/WBE’s agreement is no different from that of non-M/WBE authorized distributorships and authorized dealers for the manufacturer regarding such matters as scope of geographical territory allocation, scope of potential public and private sector customers, scope of product line, price lists for goods and supplies, volume discounts in pricing, rebates, credit terms, delivery terms, marketing and technical support from manufacturer, and any other material terms that may affect the competitive viability of the authorized distributorship or authorized dealer.

Provided the manufacturer and its certified M/WBE authorized distributorship or authorized dealer meets conditions iii. and iv. above, and provided further that the certified M/WBE authorized distributorship or authorized dealer has won a bid for the supply of such Commodities to the Authority, under this API, notwithstanding any provision in this Purchasing Manual to the contrary, the Coordinator of the EBO Office may extend the length of the supply contract by additional option years without rebidding the contract, and/or the Authority may accelerate payment of invoices. The EBO Office and Originating Department shall carefully monitor the contract to ensure that the certified M/WBE authorized distributorship or authorized dealer is performing a commercially useful function under the contract, and that it is being treated in accordance with the terms of its agreement with the manufacturer. This assessment shall be made by the EBO Office prior to the Authority’s exercise of any option year on the supply contract. In the event the EBO Office
d) Mandatory M/WBE Distributorship Development Program (R/C-19)

In instances wherein manufacturers have violated the Authority's Commercial Nondiscrimination Policy set forth in Section 6.3 by excluding or discriminating against M/WBE suppliers that seek to become authorized dealers / distributors, this API requires the manufacturer to establish such an authorized dealership with an M/WBE supplier under the terms of API R/C-18 as a condition for being eligible to sell commodities to the Authority.

e) M/WBE Evaluation Preferences (R/C-20)

Under this API, evaluation preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals to those firms bidding on “best value” Other Services and Trade Services contracts valued at less than $500,000. The sliding scale shall be based upon the relative level of M/WBE dollar participation that has been committed to on the prime bidder’s team (e.g., zero M/WBE participation on a prime bidder’s team shall yield zero evaluation points, whereas the proposal from the prime bidder that proposes achieving the maximum M/WBE participation among all prime bidders, at the prime contract and subcontract levels combined, shall yield award of fifteen evaluation preference points out of 100 to that bidder; and a prime bidder’s team that achieves only half as many dollars in M/WBE participation as the firm with the greatest M/WBE dollar participation at the prime contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100). Alternatively, the Coordinator of the EBO Office may restrict award of the 15 percent (15%) evaluation preference to those M/WBE Other Services and Trade Services firms that have not previously been awarded a contract by the Authority. In such instances, the M/WBE firms shall remain eligible for such 15% evaluation preferences for up to one year from date of their first contract award.

f) Competitive Business Development Demonstration Project (R/C-21)

Under this API, the Coordinator of the EBO Office, with the approval of the Executive Director and the Director of Purchasing, may establish a Competitive Business Development Demonstration Project may set aside large multi-year contracts valued at greater than $10 million as Competitive Business Development Demonstration Projects. Such Demonstration Projects shall be established within an industry segment (e.g., waste hauling and disposal) that routinely has a scarcity of locally-based bidders to provide meaningful or sufficient competition for such Authority contracts. The purpose for the placement of a contract into the “CBD” Demonstration Project is to encourage development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the Authority, and to address the ongoing effects of marketplace discrimination that have posed barriers to the formation and successful diversification of M/WBE firms into those industry segments. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposal contract award process whereby the selected firm will be required to be a joint venture between an established firm or team of knowledgeable and experienced experts in the industry segment and an M/WBE firm. The M/WBE joint venture partner shall be responsible for recruiting, organizing and managing the participation of other S/M/WBE firms that enroll in the CBD Demonstration Project. The scope of work for the selected joint venture Respondent to the RFP shall include teaching a hands-on curriculum to enrolled S/M/WBE firms seeking to diversify into the industry segment that combines required administrative skills and information (e.g., cost estimating, bidding, staffing, fee collection and reimbursement, insurance, licensing and permitting requirements, equipment sourcing and operation, and project management) with technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field). The Joint Venture shall also have overall responsibility for oversight and performance of the demonstration project’s principal function and scope of work in serving the needs of the Authority’s rate payers while utilizing enrolled S/M/WBE firms as subcontractors and/or staffing trainee sources to the extent feasible. Selection criteria for firms competing for this RFP shall include, but not be limited to, the bidder’s capabilities and performance qualifications for the Demonstration Project, the strength of the Joint Venture team’s track record in achieving economic inclusion goals and objectives, and demonstrated commitment and ability to recruit, manage, and successfully diversify qualified local S/M/WBE firms and business owners into the industry segment.
g) M/WBE Joint Venture Incentives (R/C-22)

Under this API, for contracts valued at greater than $5 million, the Coordinator of the EBO Office may establish incentives to promote joint ventures between larger established firms and M/WBE firms, or between and among SBE and M/WBE firms. For “best value” contracts wherein low price is not the only criterion for award, the incentive may be for up to fifteen percent (15%) of one hundred evaluation points to be reserved for qualifying S/M/WBE joint ventures wherein the certified M/WBE joint venture partner owns 50% or greater, and performs 50% or greater of the work, of the overall joint venture. Proportionately fewer evaluation preference points would be awarded to the joint venture based upon lesser percentages of ownership by the M/WBE partner. Alternatively, incentives may include bonding waivers, assignment of multiple task orders on job order contracts totaling up to $1,000,000 in value, and accelerated payments or mobilization payments to be afforded to qualifying S/M/WBE joint ventures. This API should be reserved for those occasions wherein there are sufficient numbers of qualified M/WBE firms available of sufficient size to meaningfully joint venture for purposes of performing larger contracts. Another consideration for application of this API is whether there are larger non-local S/M/WBE firms, or larger S/M/WBE firms that may have graduated from eligibility for the program, that are available and willing to joint venture with certified smaller local M/WBEs for purposes of enhancing local capacity at the prime contract level.

A prospective M/WBE joint venture Respondent on such an Authority contract shall submit in response to the solicitation such documentation as required by the Authority that includes, but is not limited to:

i. The names of the S/M/WBE joint venture and each of its partners that will participate on the contract;

ii. The percentage of Prime Contract dollars and the absolute dollar value of the services to be provided by the SBE joint venture partner; and

iii. A description of the work, management responsibilities, and other contributions that each joint venture partner shall perform or provide under the terms of its joint venture agreement.

h) M/WBE Subcontracting Goals for Other Services Contracts Valued at Greater Than $5 Million (R/C-23)

The Coordinator of the EBO Office or designee may, on a contract-by-contract basis, at his or her discretion, require that a predetermined percentage up to 40% of a specific Other Services contract that is valued at greater than $5 million shall be subcontracted to eligible M/WBEs (i.e., certified M/WBE firms owned by African American, Hispanic, and Caucasian women persons). Factors to be considered by the EBO Office in making this determination shall include the relative availability of M/WBE firms to perform Commercially Useful Functions on the specific contract weighted according to the relative dollar value of the construction sub-specialties available for subcontracting.

A prospective bidder on an Authority solicitation, for which price and scope are defined, shall submit at the time as required in the solicitation such documentation as required by the Authority that provides:

i. The name(s) of the M/WBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each M/WBE;

iii. A description of the work that each M/WBE Subcontractor shall perform; and

iv. Documentation confirming the Subcontractor’s commitment to perform the work at the stated price.
A prospective Respondent to an Authority solicitation, for which Respondents are not initially evaluated based on price, or for which project scope is not predefined, shall submit at the time as required in the solicitation such documentation as required by the Authority to affirm its intent to meet the subcontracting requirements indicated in the solicitation. In the absence of a waiver request granted by the EBO Office, failure of a Respondent to commit as required in the solicitation to satisfying the M/WBE subcontracting goal shall render its response non-Responsive.

During the price proposal negotiation phase, Respondents shall be required to submit:

i. The name(s) of the M/WBE Subcontractor(s) it intends to use on the project;

ii. The percentage of prime contract dollars and the absolute dollar value of subcontracting services to be provided by each M/WBE; and

iii. A description of the work that each M/WBE Subcontractor shall perform.

A Respondent may request a full or partial waiver of this mandatory subcontracting requirement for good cause by submitting the appropriate form(s) and documentation at the time as required in the solicitation. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the Respondent and careful review by the EBO Office. The EBO Office shall base its determination on a waiver request on criteria such as, but not limited to:

i. Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available M/WBEs;

ii. Whether subcontracting would be inappropriate and/or not provide a "Commercially Useful Function" under the scope of the contract; and

iii. Whether there are no certified M/WBE firms that are qualified and available to provide the goods or services required.

In the absence of a waiver granted by the EBO Office, failure of a Prime Contractor to commit as required in the solicitation to satisfying the M/WBE subcontracting goal shall render its response non-Responsive. Provided, however, that on any prime contract valued under $1 million, if the Prime Contractor is a certified M/WBE firm, then the Prime Contractor is allowed to self-perform up to the entire M/WBE subcontracting goal amount with its own forces. To the extent that the certified M/WBE Prime Contractor does not self-perform a portion of the M/WBE subcontracting goal, it shall be responsible for complying with all other requirements of this API for that portion of work that is subcontracted. This self-performance option for certified M/WBE Prime Contractors may be suspended at the discretion of the Coordinator of the EBO Office in the event he or she determines that the adverse cumulative effect of the use of this self-performance option upon subcontractor opportunities is too great.

In the absence of a waiver granted by the EBO Office, or the self-performance of a portion or all of the M/WBE subcontracting goal by a certified M/WBE Prime Contractor, the failure of a Prime Contractor to attain a subcontracting goal for M/WBE participation in the performance of its contract or otherwise comply with the provisions of this API shall be considered a material breach of contract, grounds for termination of that contract with the Authority and shall be subject to any penalties and sanctions available under the terms of the EBO Program, its contract with the Authority, or by law.

A Prime Contractor is required to notify and obtain prior written approval from the EBO Office Coordinator in advance of any reduction in subcontract scope, unless such reduction in scope is the direct and immediate result of an Authority-mandated change order or contract amendment, or the Authority has mandated the de-Certification, suspension, graduation or termination of a designated M/WBE Subcontractor. However, under such circumstances, the Prime
Contractor shall undertake Good Faith Efforts to replace the de-certified, suspended, graduated or terminated M/WBE Subcontractor(s) with one or more other certified M/WBE Subcontractor(s) and shall submit a waiver request to the EBO Office in the event such Good Faith Efforts are unsuccessful.

Upon award of the prime contract to a Respondent, the Prime Contractor shall be required to submit accurate progress payment information with each invoice regarding each of its Subcontractors, including S/M/WBE Subcontractors. The Originating Department shall audit the reported payments to S/M/WBE and non-S/M/WBE Subcontractor to ensure that the Prime Contractors' reported subcontract participation is accurate. Absent a waiver from the EBO Office, a Prime Contractor's failure to reach the required level of S/M/WBE subcontracting shall be considered a material breach of contract. Authority contracts with Prime Contractors shall include clauses requiring Prime Contractors to pay Subcontractors in compliance with Florida Prompt Payment Law, and such clauses shall mandate that in the event of Prime Contractor non-compliance regarding such payments, the Prime Contractor shall be subject to any penalties and sanctions available under the terms of the EBO Program, its contract with the Authority, or by law.

F. Program Administration

1. Originating Departments – Duties and Responsibilities

It shall be the responsibility of Purchasing to ensure that solicitations emanating from the department adhere to the procedures and provisions set forth in this Policy. The Originating Department Director or Manager or designee shall assume joint responsibility with Purchasing for assuring vendor and contractor compliance with the Economic Inclusion objectives of this EBO Policy (as stated within material Bid Solicitation contract specifications, and deliverable requirements). The Originating Department shall review, on a continuing basis, all aspects of the Program's operations that it is involved in to any degree, and make adjustments to its efforts, as necessary, to assure that the Policy's purpose is being achieved. The Originating Department, in collaboration with Purchasing and the EBO Office, shall ensure the following actions are taken to ensure that S/M/WBEs have the maximum practicable opportunity to participate on Authority contracts:

i. Post all Formal Solicitations on the Authority's website, for the solicitation period required by state law for the type of procurement, and then direct targeted e-mail alerts containing links to the webpage where such Authority solicitations are posted at least thirty days in advance of bid or proposal due dates. Such e-mail alerts should be directed to all Respondents that have registered with the appropriate commodity/industry codes on the Authority's CBR system;

ii. Encourage all prospective Prime Contractor Respondents for Authority solicitations to post their subcontract opportunities on the Authority webpage where the solicitation specifications have been posted by the Authority.

iii. Ensure that the Commercial Nondiscrimination Policy statement, compliance language, and any other materials and specifications required by the Economic Inclusion Policy are included in all Bid Solicitation and contract documents;

iv. Preview and evaluate all contracting opportunities in an effort to de-bundle the total requirements of a contract into smaller units to promote maximum and reasonable opportunities for S/M/WBE participation, without making separate, sequential or component purchases in violation of state purchasing laws;
v. Establish procedures to ensure that all contractors submitting correct and undisputed invoices are paid within thirty (30) days and that Subcontractors are paid within ten (10) days after the Authority pays the Prime Contractor. Insert a requirement in all contracts that Prime Contractors must inform subcontractors of written notice of disputed invoices within five (5) days of receipt, and clearly state in such notices the reasons for the disputed invoice;

vi. Ensure that an Authority contract is not executed and that a Notice to Proceed is not issued until binding agreements between the Prime and subcontracting S/M/WBEs have been executed by all parties and submitted to the Originating Department;

vii. Ensure that all required statistics and documentation regarding bid, contract, invoice, and payment information are submitted to the EBO Office as requested;

viii. If circumstances prevent the Originating Department from meeting notification requirements contained herein, the Originating Department shall engage in direct and extensive outreach to S/M/WBE associations or other relevant organizations to inform them of the contracting opportunity, unless the circumstances are exigent and an emergency exists that requires immediate action to protect the public health, safety or welfare; and

ix. Notify the EBO Office Coordinator or designee of all change orders and amendments to contracts that are subject to this Policy and take necessary steps to ensure that APIs applied to the contract by the EBO Office are also extended and enforced, to the maximum practical extent, with regard to any modified scope of work under the terms of such change orders and contract amendments.

2. EBO Office – Duties and Responsibilities

The following duties and responsibilities of the EBO Office are in addition to those set forth in Section 6.2:

General Duties

The EBO Policy will be administered and managed by the Coordinator of the EBO Office or designee. The Coordinator of the EBO Office or designee shall attend all Governing Board agenda meetings to address any S/M/WBE or EBO Policy issues. The EBO Office shall be responsible for the overall administration of the SWA’s EBO Policy. At a minimum, the EBO Office shall:

a. Report to the SWA and the public, based on available data, on at least an annual basis as to the SWA’s progress toward satisfying the EBO Policy purposes and objectives.

b. Formulate, establish, distribute and implement additional forms, rules and procedures for EBO Policy waivers, improvements and adjustments to the goal-setting methodologies and other Policy
c. Have advance substantive input in a contract specification review process consistent with this Policy to ensure that contract solicitation specifications are not unnecessarily restrictive and unduly burdensome to S/M/WBE firms;

d. Receive and analyze external and internal information, including statistical data and anecdotal testimony regarding the barriers encountered by S/M/WBE firms in attempting to obtain contract opportunities at the SWA, and the relative effectiveness of various APIs in addressing those barriers;

e. Monitor and support the implementation of the EBO Policy and propose modifications to appropriate SWA officials as necessary to fully achieve the purpose and objectives of the Policy;

f. Provide public education and advocacy internally and externally regarding the purposes and objectives of the EBO Policy;

g. Develop, maintain and distribute directories of certified SBEs and M/WBEs;

h. Assess technical assistance needs of S/M/WBE firms and provide seminars and technical assistance referrals to S/M/WBE firms to enhance their ability to effectively compete for SWA contracts;

i. Investigate alleged violations of this Policy and provide written recommendations to appropriate authorities for remedial action and imposition of sanctions and penalties when necessary;

j. Determine Prime Contractor compliance with EBO Policy requirements prior to contract award presentation to the SWA and prior to Originating Department release of final retainage;

k. Oversee the maintenance of an accurate contract performance and compliance reporting system;

l. Provide staff support for the SBAC and the EBO Ombudsman; and

m. Collaborate with the Office of the Chief of Financial Officer, Financial Management, Information Technology, and the Purchasing to streamline the invoice and payment procedures at SWA so as to accelerate payments for undisputed invoices within fifteen (15) days of receipt to prime contractors and vendors, and to require such primes and vendors to then pay undisputed subcontractor invoices within five (5) days of receipt of invoice.

Certification

Certification of all S/M/WBE firms shall be the ultimate responsibility of the EBO Office. The EBO Office shall be responsible for reviewing all S/M/WBE Certification and re-Certification forms used by its selected certifying agent or organization to ensure that they are sufficient for purposes of gathering information consistent with the standards, definitions and intent established by this Policy. The EBO Office shall also maintain an automated and up-to-date web-based registry of all certified S/M/WBE firms that is readily available to the general public, as well as to SWA personnel.

(a) In executing its responsibility in connection with these Certifications, the EBO Office may contract with a regional governmental or certification agency/organization for the purpose of issuing Certifications in a manner that is consistent with the eligibility standards established under this EBO Policy.

(b) A firm eligible for Certification(s) under this EBO Policy shall be an Independently Owned and
Operated business. The ownership and Control by Minority Group Members or Women shall be real and substantial, and shall be indicated by customary incidents of ownership as demonstrated by an examination of the substance, rather than the form, of ownership and operating arrangements. In determining whether a potential firm is an Independently Owned and Operated business, the certifying agency considers all relevant factors including, but not limited to:

i) The date the business was established;

ii) The adequacy of its resources for the work of the contract; and

iii) The degree to which financial, equipment leasing, supplier and other relationships with non-minority businesses vary from industry practice.

(c) The Minority Group Member or women owners must possess and exercise the power to direct the management and policies of the firm and to make day-to-day decisions, as well as any decisions on matters of management policy, and operations. The firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the Minority Group Member or women owners. There shall be no restrictions by partnership agreements, charter requirements, operating agreements or other arrangements which prevent the Minority Group Member or women owners from making business decisions for the firm without the cooperation or vote of any owner that is not minority or female.

(d) Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as an S/M/WBE. Certification as S/M/WBE firms will be in accordance with the definitions established in this Purchasing Manual.

(e) A claim of minority status as a Minority Group Member must be directly related to the applicant’s parents’ status. Neither birthplace nor marriage has any bearing on minority status of the Certification applicant. All Minority Group and women owners of certified firms must be Individuals that are lawfully residing in, or are citizens of, the United States or its territories.

(f) A firm seeking Certification or re-Certification status under this Policy shall cooperate fully with the SWA (or its designated certification agent) in supplying additional information and in facilitating a site visit of the enterprise which may be requested in order to make a determination. Failure or refusal to cooperate shall result in denial or repeal of Certification.

(g) Proof of Certification by another certifying entity may be accepted by the SWA in lieu of the SWA’s own Certification process if the certifying entity adheres to the same or similar policies and standards as those established by the SWA. To the extent the SWA’s factual predicate for its EBO Policy requires, under applicable law, a narrower definition of S/M/WBE firm categories (e.g., due to ethnicity / gender of ownership or relevant geographic market considerations), the SWA shall limit the categories of S/M/WBE firms certified by other jurisdictions that shall be eligible for participation in the Authority’s Equal Business Opportunity Program as necessary to ensure that the Race-Conscious remedial relief provided by the Authority's Program remains appropriately narrowly-tailored.

(h) Before accepting another jurisdiction’s S/M/WBE Certification program, the EBO Office shall examine the definitions, standards and Certification practices of the program to ensure that it adheres to established SWA Certification guidelines.

(i) If the owners of the business who are not Minority Group Members or women are disproportionately responsible for the operation of the firm, the firm is not Controlled by minorities and/or women and may not be considered to be an M/WBE within the meaning of this Policy.
Where the actual management of the business is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers may, for the purposes of this Policy, be considered as controlling the business.

(j) All securities that constitute ownership or control of a corporation for purposes of establishing it as an M/WBE under this Policy shall be held directly by minority group members or women. Securities held in trust, or by any guardian for a minor, may not be considered as being held by minority group members or women in determining the ownership or control of a corporation.

(k) The contributions of capital or expertise by the minority group member or women owners to acquire their interests in the business shall be real and substantial. Examples of insufficient capital contributions include:

i) A promise to contribute capital;

ii) A note payable to the business or its owners who are not socially and economically disadvantaged, minority group members or women; and

iii) Contributions in labor or expertise that result solely in employee compensation, without participation in business profits as an owner.

(l) Special consideration of the following additional circumstances in determining eligibility:

i) Newly-formed businesses and businesses whose ownership or control has changed since the date of the advertisement of the contract shall be closely scrutinized to determine the reasons for the timing of the formation of, or change in, the businesses;

ii) A previous or continuing employer–employee relationship between or among present owners shall be carefully reviewed to ensure that the employee–owner has management responsibilities and capabilities discussed in this Policy;

iii) Any relationship between an M/WBE and a business that is not an M/WBE, but that has an interest in the M/WBE, shall be carefully reviewed to determine if the interest of the non-minority business conflicts with the ownership and control requirements of this Policy.

iv) Once certified, an S/M/WBE firm shall update its status biennially by submitting a certification affidavit. If ownership or control of the firm has changed, the S/M/WBE firm shall submit a new certification affidavit to the EBO Office (or its contracted certification agency) within thirty (30) days of the change.

v) The certifying entity will notify applicants of staff's determinations on certification and re-certification status.

(m) Once denied certification, a firm may not re-apply for certification until the time indicated in the certification entity's policy.

(n) A firm shall be de-certified when it no longer meets the eligibility requirements for certification, and such de-certified firms shall not be eligible to re-apply for one year from the date of the final adverse decision.

(o) Certification, once granted, remains in effect for two (2) years, except in accordance with the graduation and suspension provisions of this policy.
Compliance Responsibilities

The EBO Office, along with contracting staff of each Authority department, shall monitor compliance with these EBO requirements during the term of the contract. If it is determined that there is cause to believe that a Prime Contractor or Subcontractor has failed to comply with any of the requirements of this Policy, or with the contract provisions pertaining to S/M/WBE utilization, the Coordinator of the EBO Office or designee shall so notify the Originating Department and the contractor. The Coordinator of the EBO Office or designee may require such reports, information, and documentation from contractors, Respondents and the head of any Authority department, division, or office as are reasonably necessary to determine compliance with the SBE Policy requirements, within fifteen (15) calendar days after the notice of noncompliance is issued. If the requested materials are not received within fifteen (15) calendar days, then a finding of noncompliance is determined and appropriate penalties and sanctions will apply as stated in this EBO Program Policy and Purchasing Manual.

Joint responsibility is shared by the Coordinator of the EBO Office or designee and the Originating Department or designee to attempt to resolve a contractor's, subcontractor's, or vendor's noncompliance with the requirements of this Policy, including any non-compliance with contract provisions pertaining to S/M/WBE utilization, within fifteen (15) calendar days after the apparent noncompliance is discovered. A written notice of the noncompliance should immediately be sent by the EBO Office or designee to those contractors, subcontractors, or vendors that are in noncompliance, and to the Director or Manager of the Originating Department or designee. If noncompliance cannot be resolved within fifteen (15) calendar days after notice is sent, the Coordinator of the EBO Office or designee and the Director or Manager of the Originating Department or designee shall submit written recommendations to the Executive Director or designee, and if the Executive Director or designee concurs with the finding, such sanctions as stated in this Economic Inclusion Policy and Procedures and Purchasing Manual shall be imposed.

Whenever the Coordinator of the EBO Office or designee finds, after investigation, that an Originating Department has failed to comply with the provisions of this Policy or the contract provisions pertaining to S/M/WBE utilization, a written finding specifying the nature of the noncompliance shall be transmitted to the Originating Department, and the Coordinator of the EBO Office or designee shall attempt to resolve any noncompliance through conference and conciliation. Should such attempt fail to resolve the noncompliance, the Coordinator of the EBO Office or designee shall transmit a copy of the finding of noncompliance, with a statement that conciliation was attempted and failed, to the Executive Director or designee who shall take appropriate action under this Policy to secure compliance.

The Coordinator of the EBO Office, or designee, shall submit a written annual report to the Executive Director and the Authority Board on the progress of the Authority toward the utilization goals and objectives established by this Policy together with the identification of any problems and specific recommendations for improving the Authority's performance.

The EBO Office Coordinator or designee and Originating Departments shall work closely with the Authority's Office of General Counsel to include language in all Authority contracts that ensures compliance with the EBO Program. This language should also include a time period for the contractor to correct any and all deficiencies no later than fifteen (15) calendar days after notification of non-compliance.

The EBO Office Coordinator shall also establish certification, re-certification, and graduation procedures for S/M/WBE firms to be certified by an independent third-party entity as being at least 51% owned, controlled, and managed in accordance with eligibility standards and definitions established by this Economic Inclusion Policy, and the size standards set forth in Exhibit Q of this Purchasing Manual. Processing of certification applications shall be at no cost to the applicants. The Coordinator shall diligently review the practices and standards of prospective certifying entities to ensure that they are consistent with best practices for maintain economic inclusion program integrity.

Reporting Requirements – EBO Office

The EBO Office Coordinator or designee shall monitor the implementation of this Economic Inclusion Policy and periodically issue written reports (preferably quarterly) on the progress of the EBO Program and the various EBO Program elements. Also, on no less than an annual basis, the Coordinator of the EBO Office or designee shall report
to the Authority Board and the Executive Director on the implementation of the Program and, as data becomes available, progress on achieving the goals and objectives of the Economic Inclusion Policy and the effectiveness of the EBO Program. Such reports shall include the achievement of contract participation goals for S/M/WBEs by ethnicity and gender of ownership, by industry segment, by location, and by API. The Coordinator of the EBO Office or designee shall also issue a written report on an annual basis to the Executive Director and the Authority Board that summarizes contract payments to Prime Contractors and all Subcontractors for each of these categories. This written report should also address stated EBO Program objectives including, but not limited to, enhancement of competition as reflected in solicitation response activity, growth in availability and business capacity for S/M/WBE firms, removal of barriers to S/M/WBE contract participation, reduction or elimination of disparities in contract awards and contract payments to M/WBE firms in Authority contracts. Other specific performance measures by which the success of the Economic Inclusion Policy might be evaluated (depending upon the availability of data) include: (a) growth in the numbers of SBE and M/WBE firms winning their first contract awards from the Authority; (b) growth in the Authority’s overall SBE and M/WBE Prime Contracting dollar volume; (c) growth in the numbers of SBE and M/WBE firms that are bondable and in the collective bonding capacity of SBE and M/WBE firms; (d) growth in the numbers of SBE and M/WBE firms that successfully graduate from the programs and remain as viable competitors after the passage of two (2) years; (e) growth in the numbers of graduated SBE and M/WBE firms that successfully compete for Authority contracts; (f) growth in the size of the largest Authority contracts won and successfully performed by SBE and M/WBE firms respectively; (g) comparability in the annual growth rates and median sales of SBE firms and M/WBE firms as compared to other firms; and (h) growth in the percentage of contract dollar participation of M/WBE firms in the private sector of the Relevant Marketplace. The written report should also contain any recommendations for modifications, suspension, or termination of any portion of this EBO Program, with justifications for each such recommendation.

3. Contractor / Vendor Responsibilities

To facilitate the EBO Office completing its responsibilities in administering EBO Program elements, a contractor / vendor shall:

(a) Permit the EBO Office to inspect any relevant matter, including records and the jobsite, and to interview Subcontractors and workers (field compliance).

(b) If performing an Authority Construction contract, ensure that all Subcontractors are paid any undisputed amount to which the Subcontractor is entitled within 10 calendar days of receiving a progress or final payment from the Authority and otherwise comply with Authority’s contract terms and conditions which set forth the obligations of the Prime Contractor and Subcontractors and the remedies for delinquency or nonpayment of undisputed amounts.

(c) Notify the Authority in writing of any changes to their S/M/WBE utilization and/or subcontracting plan. All changes (substitutions and/or terminations) must be approved in advance and in writing by the EBO Office.

(d) Amendment for unforeseen circumstances: If at any time after submission of a solicitation response and before execution of a contract, the apparent successful Respondent determines that a certified S/M/WBE listed on the participation schedule has become or will become unavailable, then the apparent successful Respondent shall immediately notify the EBO Office. Any desired change in the S/M/WBE participation schedule shall be approved in advance by the EBO Office and shall indicate the Prime Contractor’s Good Faith Efforts to substitute another certified S/M/WBE Subcontractor (as appropriate) to perform the work. Any desired changes (including substitutions or termination and self-performance) must be approved in writing in advance by the EBO Office.

(e) Notify the Originating Department and EBO Office of any transfer or assignment of a contract with the Authority.

(f) Retain records of all Subcontractor payments for a minimum of four years following project termination date

4. Exceptions and Waivers
(a) If a Respondent is unable to comply with the API requirements imposed by the Coordinator of the EBO Office under the terms of this Policy, such Respondent shall submit, as required in the solicitation, a request for a waiver or partial waiver at the time as required in the solicitation. The waiver request shall include specified documentation which demonstrates a Good Faith Effort to comply with the requirements as described under the selected APIs.

(b) If, after award of a contract, the contractor is unable to meet the participation requirements for S/M/WBEs specified at response submittal, the contractor must seek substitute S/M/WBEs to fulfill the requirements; the requested substitution must be approved by the Coordinator of the EBO Office or designee and the Originating Department Director or designee. If, after reasonable Good Faith Efforts, the contractor is unable to find an acceptable substitute S/M/WBE, a post-award waiver may be requested. The request shall document the reasons for the contractor’s inability to meet the goal requirement. In the event the contractor is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute for the initial S/M/WBE proposed utilization, the contract may, in the Authority’s sole discretion, be terminated for material breach. If the Authority terminates the contract, the Authority may then award the contract to the next lowest Responsible and Responsive Respondent or, in the alternative, re-solicit the contract with the terminated vendor being disqualified from participation in the re-solicitation.

(c) Upon submission of a prospective solicitation to the EBO Office, and prior to the public release of solicitations, an Originating Department or Purchasing may request the EBO Office Coordinator or designee to waive or modify the application of API requirements for S/M/WBE participation by submitting its reasons in writing. In the event consensus cannot be reached regarding the request, the request for exception of the solicitation from the EBO program shall be resolved by the Executive Director. The Executive Director or designee may grant such an exception or modification of application of an API upon a determination that:

i) The extraordinary and necessary requirements of the contract render application of the APIs infeasible or impractical;

ii) The nature of the goods or services being procured are excluded from the scope of this EBO Policy;

or

iii) Sufficient qualified S/M/WBEs providing the goods or services required by the contract are unavailable in Palm Beach County despite every reasonable attempt to locate them.

Otherwise, such solicitations shall be forwarded to the Coordinator of the EBO Office for review and possible application of APIs. Any further requests from an Originating Department or Purchasing for modification of Goal amounts or other APIs as established by the Coordinator shall be presented to the Executive Director or designee, whose decisions on such requests shall be final.

(d) The Coordinator of the EBO Office may waive the application of APIs to enhance S/M/WBE utilization for a specific contract under the following circumstances:

i) Whenever the needed goods or services are available only from a sole source and the prospective contractor is not currently disqualified from doing business with the Authority, or the procurement is necessary to preserve or protect the health and safety of the Authority's residents; and

ii) The Originating Department or Purchasing certifies to the Coordinator and Executive Director or designee:

a) That an emergency exists which requires goods or supplies to be provided with such immediacy that it is unable to comply with the requirements of this Ordinance; and

b) That the prospective contractor is an S/M/WBE or, if not, that the prospective contractor will make a Good Faith Effort to utilize S/M/WBEs.
Final approval of all such exceptions and waivers shall be made by the Executive Director or designee.

5. Penalties and Sanctions

(1) Upon recommendation of sanctions by the Executive Director regarding the failure of a contractor, vendor, Respondent or other business representative to comply with any portion of this Policy, the Authority Board may impose upon the non-complying party any or all of the following penalties:

   i) Suspension of contract;

   ii) Withholding of funds;

   iii) Rescission of contract based upon a material breach of contract pertaining to EBO Policy compliance;

   iv) Refusal to accept a response or proposal;

   v) Debarment of a Respondent, contractor or other business entity from eligibility for providing goods or services to the Authority for a period not to exceed three (3) years (upon Board approval); and

   vi) Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the contract, and the dollar value of S/M/WBE participation as actually achieved.

(2) It is a violation of this Policy to:

   i) Fraudulently obtain, retain or attempt to obtain, retain or aid another in fraudulently obtaining, retaining or attempting to obtain or retain Certification status as an S/M/WBE for purposes of this Policy.

   ii) Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of this Policy.

   iii) Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE.

   iv) Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of this Policy.

   v) Make false statements to any entity that any other entity is or is not certified as an S/M/WBE for purposes of this Policy.

(3) Any person who violates these provisions shall be subject to penalties and sanctions established by this Purchasing Manual and by this EBO Policy, and also to the maximum penalty provided by law.

6. Small Business Advisory Committee

The Coordinator of the EBO Office shall nominate an eleven-member citizens committee made up of representatives of trade groups and members of the general business community (including, but not limited to, no less than six S/M/WBE owners), and subject to formal appointment by the Board, this advisory group shall serve as the Small Business Advisory Committee to: (a) assist the Coordinator of the EBO Program or designee, the Executive Director or designee, and the SWA governing Board in reviewing the administration of various programs and policies that promote S/M/WBE participation in SWA prime contract and subcontract opportunities; (b) coordinate activities and
actions with the EBO Office or other committees and work groups designated by the Board or Executive Director; and (c) make recommendations to the Coordinator of the EBO Office, the Executive Director or designee, and Board concerning modifications of such programs, policies, and procedures established pursuant to this Policy. Six Committee members shall serve two-year terms, and five Committee members shall serve one-year terms. As vacancies become available, they shall be filled as soon as practicable through the same nomination and appointment process.

7. EBO Ombudsman (Mediation)

As needed, the Executive Director shall appoint a senior staff person outside of the realm of purchasing and contract activity to serve as the EBO Ombudsman for purposes of mediating disputes between S/M/WBEs and prime contractors and vendors, and/or the EBO Office staff and other SWA departments. Any aggrieved S/M/WBE firm may seek the services of the EBO Ombudsman by filing a request through the EBO Office. The intent of the mediation process is to prevent small disputes from becoming costly legal disputes, and to seek reasonable resolution of such disputes that are satisfactory to all parties.

8. Periodic Review and Factual Predicate

Beginning no later than December 31, 2021, three (3) years after the Governing Board's adoption of the 2017 Disparity Study, and every five (5) year interval thereafter, the SWA shall issue a Request For Proposals to undertake a comprehensive update of the full disparity study, and upon completion of each disparity study update, present disparity study results to the Authority Board, and following SWA review and a public comment period regarding those study findings and recommendations, the Authority Board shall consider any proposed modifications to, or sunset of, this Policy. As part of this review process, the Executive Director or designee shall make, or recommend to the Authority Board as appropriate, modifications to the procedures or substantive provisions of this Policy, and submit any necessary draft amendments to Policies and procedures to the Authority Board for adoption as appropriate to effectuate the continuation, modification or termination of the EBO's SBE and M/WBE Program elements.

9. Severability Clause

If any section, paragraph, sentence, clause, phrase or word of this EBO Program Policy, or the application thereof, to any person or circumstance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Policy or the application of any other provisions of this Policy which can be given effect without the invalid provision or application, and to this end, all the provisions of this Policy are hereby declared to be severable.
6.5 Local Preference Policy and Eligibility Standards

In order to qualify to receive points for location, the firm must have had its headquarters or branch office located within Palm Beach County for a minimum of one (1) year. The firm must have been incorporated or legally begun business, being fully licensed, at least one (1) year prior to the issuance of the solicitation. A valid Business Tax Receipt issued by the Palm Beach County Tax Collector is required and will be used to verify that the proposer had a permanent place of business one year prior to the issuance of the solicitation. Please note that in order to receive a local preference, the name and address on the Business Tax Receipt must be the same name and address that is included in the submittal to the Authority, and that the attached Business Tax Receipt must accompany the bid at the time of bid submission. Copies of licensure, leases of office space (or proof of ownership of office site) may be required by Authority staff as proof of compliance. The firm's office must be of a permanent nature not temporary or transient (i.e., mobile homes shall be without wheels and permanently affixed to the land). The firm's office shall be fully staffed with personnel including at least one of those assigned to the Authority's projects, office furniture, office equipment, and, if applicable, professional equipment/computers as required by the type of work to be performed. A site visit by Authority staff may be required to confirm local presence. The firm will be required to maintain said office, or other Authority approved offices, for the entire term of the contract. Failure to submit this information will cause the firm not to be qualified under this Section to receive a local preference. The Authority may require a firm to provide additional information for clarification purposes at any time prior to the award of the contract.

In the case of Requests for Proposals (RFP's), Requests for Qualifications (RFQ's) or other similar formats other than bids, Local Preference may equal a maximum of 10 points. The maximum 10 points will be awarded to a local firm if all the individuals assigned to the Authority project work out of the local office. Committee members will have latitude in assigning fewer points to firms with assigned personnel working out of non-local offices.

In the case of Bids, a bidder who meets the qualifications for Local Preference and whose bid is within 5% of the low bidder who does not meet those qualifications, may be granted an opportunity to offer a best and final bid along with the low bidder and any other bidder(s) whose bid amount is equal to or less than the highest local bidder within 5% of the low bid. Contract will be awarded to the lowest best and final bid; in case of a tie for the lowest best and final bid the contract will be awarded to the lowest best and final bid offered by the local bidder. Ties between local bidders will be determined by a coin toss as specified in Section 2.21.

6.6 Drug-Free Work Place Preference and Eligibility

In order to be eligible for the "Drug Free Work Place Preference" authorized under Florida Statute 287.087, the firm must submit a fully executed Drug Free Work Place form with their bid/RFP.
SWA Service Areas

Legend
- Waste-to-Energy Plant/Landfill
- Transfer Station
- Service Areas
- Municipality
- Major Roads

1. North County Transfer Station
2. West Central Transfer Station
3. Central County Transfer Station
4. Southwest County Transfer Station
5. South County Transfer Station

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SWA Service Areas

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