

**Notice to Offerors**

**Request for Proposals**

**# 1052323**

**for**

**35 & 65 Gallon Carts For Residential Curbside Paper/Cardboard Recycling**

This solicitation may be subject to the County's Wage Requirements law for service contracts. If this solicitation is subject to that law, then the appropriate space will be marked in the box denoting "This is a Services Contract", at the bottom of the next page (page 1). And, in this event, the "Wage Requirements for Services Contract Addendum" (Attachment "G") should be attached.

If this solicitation is subject to the Wage Requirements law (see above explanation), then the "Wage Requirements Certification" and, if applicable, the "501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form" (see Attachment "G"), must be completed and submitted with your proposal. If you fail to submit and complete the required material information on the form(s), your proposal may be unacceptable under County law and may be rejected.

As noted in Attachment "G" (Item A, Wage Requirements Compliance), a contractor required to comply with the Wage Requirements Law must quarterly (January, April, July, and October for the prior quarter) submit certified payroll records for all employees and any subcontractors, governed by the Wage Requirements Law, for each payroll period to the Office of Business Relations and Compliance, Attn: Wage Program Manager. These payroll records must include the following for each employee and any subcontractors: name; address; position/title; daily straight time hours worked; daily overtime hours worked; straight time hourly pay rate; overtime hourly pay rate; any deduction for health insurance; total gross wages paid for each period; and total net wages paid after any additions and deductions for each pay period.

Please note the information pertaining to the Wage Requirements law is on Attachment "G". Also note that for services contracts, you can find the current mandatory wage rate, per hour, payable to employees under Section 11B-33A of the County Code, by going to the website ([www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)), and clicking on "Departments", "Office of Procurement" and then "Living Wage". Also, the Wage Requirements law ("Living Wage") is available at the same website.

**If there is a need for sign-language interpretation and/or other special accommodations, it is requested that at least five (5) days advanced notice be provided to the County's Office of Procurement contact on page 1.**



## REQUEST FOR PROPOSALS

RFP# 1052323

### 35 & 65 Gallon Carts For Residential Curbside Paper/Cardboard Recycling

August 6, 2015

Montgomery County, Maryland is soliciting proposals for the provision of the above-referenced goods/services as outlined in this document.

One original and four (4) copies of your proposal must be submitted in a sealed envelope/package no later than **3:00p.m. on September 9, 2015** to the Office of Procurement, Rockville Center, 255 Rockville Pike, Suite 180, Rockville, Maryland 20850-4166. The sealed proposal package must be clearly marked with the solicitation number, due date, and due time.

There will not be an optional pre-submission conference.

The County will not accept proposals it receives by fax or e-mail. **All faxed or e-mailed proposals will be returned.**

Should you have any questions regarding the technical information or the scope of services contained in this solicitation, contact G.A. Corrick at (240) 777-6405.

Should you have any questions regarding procurement information (i.e., terms and conditions) contained in this solicitation, contact Bob Norris at (240) 777-9926.

**(The Office of Procurement will check one of the boxes below to indicate whether this RFP is a services contract, a Construction Contract, or neither)**

<b>This is a Services Contract (see Section A, Services Contract):</b>	<input type="checkbox"/>
<b>or</b>	
<b>This is a Construction Contract (See Attachment H):</b>	<input type="checkbox"/>
<b>or</b>	
<b>This is not a Services Contract (disregard Section A, Services Contract) and is not a Construction Contract (disregard Attachment H):</b>	<input checked="" type="checkbox"/>

Director  
Office of Procurement

RFP#1052323  
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Montgomery County, Maryland  
Acknowledgment Page

**ACKNOWLEDGMENT**

The offeror must include a signed acknowledgment that all the terms and conditions of the offer may, at the County's option, be made applicable in any contract issued as a result of this solicitation. Offers that do not include such an acknowledgment may be rejected. Executing and returning (with the offer) the acknowledgment shown below will satisfy this requirement.

The undersigned agrees that all the terms and conditions of this solicitation and offer may, at the County's option, be made applicable in any contract issued as a result of this solicitation.

Business Firm's Typed Legal Name: \_\_\_\_\_

Printed Name and Title of  
Person Authorized to Sign Proposal: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NAME AND SIGNATURE REQUIREMENTS FOR PROPOSALS AND CONTRACTS**

The correct and full legal business name of the offeror must be used in proposals received and on all contracts issued as a result of this solicitation. A trade name (i.e., a shortened or different name under which the firm does business) must not be used when the legal name is different. Corporations must have names that comply with State Law, which requires a suffix indicating the corporate status of the business (e.g. Inc., Incorporated, etc.). Trade names may be indicated by individuals or corporations with the individual or corporate name followed by "t/a" (trading as) or "d/b/a" (doing business as) respectively. The offeror's signature on the proposal, contract, amendment(s) or related correspondence, must conform to the following:  
All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of this offer or a contract is a representation by the person signing that the person signing is authorized to do so on behalf of the offeror or contractor.

By submitting a proposal under this Solicitation, the Offeror agrees that Montgomery County has within 120 days after the due date in order to accept the proposal.

**ACKNOWLEDGMENT OF SOLICITATION AMENDMENTS**

The Offeror acknowledges receipt of the following amendment(s) to the solicitation:

Amendment Number	Date

## SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES

The following provisions are applicable to this solicitation:

### ACCEPTANCE TIME

By submission of a proposal under this solicitation, the offeror agrees that County has 120 days after the due date in order to accept the proposal. The County reserves the right to reject, as unacceptable, any offer that specifies less than 120 days of acceptance time. Upon mutual agreement between the County and the offeror, the acceptance time for the offeror's proposal may be extended.

### ACKNOWLEDGMENT

The offeror is to include the signed acknowledgment (Page 4) indicating agreement with all the provisions, terms and conditions of the solicitation.

### CONTRACT DOCUMENTS

The following documents will be incorporated into the contract resulting from this solicitation:

General Conditions of Contract between County & Contractor.

Minority Business Program & Offeror's Guidelines.

Minority-owned Business Addendum to the General Conditions of Contract between County & Contractor and its companion document entitled, "Minority, Female, Disabled Person Subcontractor Performance Plan".

Offeror's Certification of Cost & Price (for contracts above \$100,000)

Wage Requirements (Living Wage) for Services Addendum to the General Conditions of Contract between the County and Contractor and its companion documents entitled, "Wage Requirements Certification", "503(c)(3) Non-profit Organization's Employee's Wage, and Health Insurance Form"

All representations and certifications listed in this document.

Mandatory Insurance Requirement

Prevailing Wage Requirements only for a construction contract between the County and Contractor

### DETERMINATION OF RESPONSIBILITY

The Offeror has the burden of demonstrating affirmatively, its responsibility in connection with this solicitation. A debarred potential offeror must automatically be considered non-responsible in connection with this solicitation. The County reserves the right to consider an offeror non-responsible, an offeror who has previously failed to perform properly or to complete, in a timely manner, contracts of a similar nature, or if investigation shows the offeror is unable to perform the requirements of the contract.

An offeror may be requested at any time by the Director, Office of Procurement or the Using Department to provide additional information, references and other documentation and information that relate to the determination of responsibility. Failure of an offeror to furnish requested information may constitute grounds for a finding of non-responsibility of the prospective offeror.

The Director may deny the award, renewal, or assignment of a contract to or for any offeror who is in default of payment of any money due the County.

The factors, which may be considered in connection with a determination of responsibility, include:

The ability, capacity, organization, facilities, and skill of the offeror to perform the contract or provide the goods or services required;

The ability of the offeror to perform the contract or provide the services within the time specified without delay, interruption or interference;

The integrity, reputation and experience of the offeror and its key personnel;

The quality of performance of previous contracts or services for the County or other entities. Past unsatisfactory performance, for any reason, is sufficient to justify a finding of non-responsibility;

The offeror's previous and existing compliance with laws and ordinances relating to the contract or services;

The sufficiency of financial resources of the offeror to perform the contract or provide the services;

The certification of an appropriate accounting system, if required by the contract type;

The offeror's evidence of ability to furnish a performance bond may be considered evidence of responsibility; and

**SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)**

Past debarment by the County or other entity.

**JOINT PROCUREMENT**

The following entities within Montgomery County must be able to purchase directly from any contract resulting from this Solicitation:

Maryland-National Capital Park & Planning Commission (M-NCPPC)

Montgomery College (MC)

Montgomery County Public Schools (MCPS)

Montgomery County Revenue Authority

Montgomery County Housing Opportunities Commission (HOC)

Washington Suburban Sanitary Commission (WSSC)

Municipalities & Special Tax Districts in Montgomery County

While this solicitation is prepared on behalf of Montgomery County, it is intended to apply for the benefit of the above-named entities as though they were expressly named throughout the document. Each of these entities may purchase from the successful offeror under the same prices and services of the contract with Montgomery County, in accordance with each entity's respective laws and regulations. An entity may choose not to procure from the successful offeror at the entity's sole discretion. If one of the above-named entities elects to purchase under the contract, the price shall be determined by using unit costs and other pertinent costs that are provided in the offer. Montgomery County shall not be held liable for any costs, payments, invoices, or damages incurred by the above jurisdictions. Each jurisdiction listed in this section will be solely responsible for and contract directly with the offeror under the jurisdiction's own procurement laws and regulations. ANY SPECIAL DISCOUNTS UNIQUE TO A PARTICULAR ENTITY (e.g. Montgomery County Public Schools educational discounts) SHOULD BE OFFERED TO THAT ENTITY.

**LATE PROPOSALS**

Responses to this Solicitation received after the date and time specified in a solicitation are considered late and may not, under any circumstances, be considered for any award resulting from the solicitation.

**MINORITY, FEMALE, DISABLED PERSON PROGRAM COMPLIANCE**

Under County law, this solicitation is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program. Further information regarding the County's MFD program is contained within this solicitation (see the attachment entitled "Minority-owned Business Addendum to the General Conditions of Contract between County and Contractor" and its companion document entitled "Minority, Female, Disabled Person Subcontractor Performance Plan").

**MONTGOMERY COUNTY CODE AND PROCUREMENT REGULATIONS**

The Montgomery County Code and the Montgomery County Procurement Regulations are applicable to this solicitation and any contract awarded pursuant to this solicitation.

**OPTIONAL PRE-SUBMISSION CONFERENCE**

If a Pre-Submission Conference is held, it is optional, though highly recommended that prospective offerors attend this pre-submission conference. For information regarding the date, time, and place of the conference, please see page 1 of this solicitation.

**PAYMENT TERMS**

The County's payment terms are net thirty (30) days.

**PREVAILING WAGE (County Code Sections 11B-33C and 20-75)**

The Prevailing Wage Law applies to all construction contracts. Under County law, a County-financed construction contract is subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the

**SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)**

provision entitled “Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor”).

An aggrieved employee is a third-party beneficiary of this Contract and the employee may, by civil action, recover the difference between the prevailing wage for the type of work performed and the amount actually received, with interest and a reasonable attorney’s fee.

**PROPOSALS**

Sealed proposals are due in the Office of Procurement, Rockville Center, 255 Rockville Pike, Suite 180, Rockville MD 20850 4166, for the purchase of supplies, material, equipment and/or services in accordance with the instructions, terms, conditions, and specifications and/or scope of services set forth in this solicitation. Proposals must be returned in a sealed envelope/package that is clearly marked with the RFP number, due date, the opening time, and the individual/company’s name. Proposals received after the date and time specified will not be considered and will be returned unopened to the offeror. The County will not be responsible for a proposal that is improperly addressed or identified.

**PROPOSAL WITHDRAWAL/MODIFICATION**

Proposals may be withdrawn or modified by the offeror upon receipt of a written request received before the specified due date and due time. Requests to withdraw or modify an offeror’s proposal received after the solicitation due date and time will not be considered.

**PROPRIETARY & CONFIDENTIAL INFORMATION**

This is to notify prospective offerors that the County has unlimited data rights regarding proposals submitted in response to its solicitations. Unlimited data rights mean that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by offerors in response to this or any solicitation issued by the County. However, information that is deemed to be confidential, commercial, or financial information as defined by the Maryland Information Act, State Government Articles 10 617, will be exempted from disclosure if the submitter can show that release of such information would cause substantial competitive harm to the submitter. It is the responsibility of the offeror to clearly identify each part of the offer that it believes is confidential, commercial, or financial information by stamping the bottom right-hand corner of each pertinent page with large boldface letters stating the words "confidential" or "proprietary." The offeror agrees, with regard to any portion of the proposal that is not stamped as proprietary or confidential, that it believes and expressly permits the County to deem it not to be proprietary or confidential.

**PROTESTS**

All protests made pursuant to this solicitation must be in writing and delivered to the Director, Office of Procurement: (a) within ten (10) days after the Director, Office of Procurement, publicly posts the proposed contract award, if the offeror seeks as a remedy the award of the contract or costs under Section 11B-36(h) of the Montgomery County Code, or (b) before the submission date for proposals, if the offeror seeks as a remedy the cancellation or amendment of the solicitation. Each protest must contain a protest filing fee in the amount of \$500 (US currency). If the fee is paid by check, the check must be made out to “Montgomery County Government”. The Director, Office of Procurement, may return the filing fee to the protesting offeror, if the protest is sustained. The Director, Office of Procurement, must dismiss any protest not timely received.

Only an offeror who is “aggrieved” may file a protest. Aggrieved means that the offeror who is filing the protest may be eligible for an award of the contract if the protest is sustained (e.g., a fourth ranked offeror is not aggrieved unless the grounds for a protest, if sustained, would disqualify the top three ranked offerors or would require that the solicitation be reissued).

Each protest must contain the following: identification of the solicitation; the name, address, email address and telephone number of the protesting offeror; a statement supporting that the offeror is aggrieved; specification of all grounds for the protest, including submission of detailed facts and all relevant documents, citation to relevant language in the solicitation, regulations, or law relied upon; and, all other matters which the offeror contends support its protest.



## SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)

The burden of production of all relevant evidence, data, and documents, and the burden of persuasion, to support the protest is on the offeror making the protest.

**PUBLIC POSTING**

It is the responsibility of the offerors, per Section 3.2.2 of the Procurement Regulations, to keep informed of the current status of any proposed awardee for contracts in which they are interested.

Of particular importance is the fact that the notice of a decision to make an award will be accomplished by a public posting of the proposed awardee(s).

Information regarding the proposed awardee(s) under this solicitation or any solicitation issued by the Montgomery County Office of Procurement will be posted on Montgomery County's website at: <http://www.montgomerycountymd.gov/PRO/Solicitations.html> and in the Office of Procurement, Rockville Center, 255 Rockville Pike, Ste. 180, Rockville, Maryland.

**QUALIFICATIONS OF OFFERORS**

Offerors may be required to furnish satisfactory evidence that they are qualified dealers or manufacturers of the items listed, or are regularly engaged in performing the services for which they are submitting a proposal, and that they maintain a regularly established place of business. An authorized representative of the County may visit any prospective contractor's plant, place of business or place where the services are performed to determine ability, capacity, reliability, financial stability and other factors necessary to perform the contract. If so requested, an offeror may be required to submit information about its reputation, past performance, business and financial capability and other factors that demonstrate that the offeror is capable of satisfying the County's needs and requirements for this solicitation.

**QUESTIONS**

All technical and non-technical questions pertaining to this solicitation are to be directed to the individuals whose names are indicated on Page 1 of this solicitation.

**SERVICES CONTRACT (County Code 11B-33A)**

Under County law, a solicitation for a contractor to provide services is subject to the Montgomery County Code regarding compliance with certain wage requirements payable to the Contractor's employees. Additional information regarding the County's wage requirements is contained within this solicitation (see the provision entitled "Wage Requirements (Living Wage) for Services Contracts Addendum to The General Conditions of Contract between County and Contractor" and its companion document entitled "Wage Requirements Certification"). If an offeror fails to submit and complete the required material information on the Wage Requirements Certification form, its proposal may be deemed unacceptable and rejected under County law.

**SOLICITATION AMENDMENTS**

In the event that an amendment to this solicitation is issued, all solicitation terms and conditions will remain in effect unless they are specifically changed by the amendment. Offerors are responsible for checking the website at [http://www.montgomerycountymd.gov/content/DGS/PRO/public\\_solicitations.asp](http://www.montgomerycountymd.gov/content/DGS/PRO/public_solicitations.asp) periodically to remain informed of any solicitation amendments. Offerors must acknowledge receipt of such solicitation amendments, to the place designated, and prior to the hour and date specified in the solicitation (as amended) for receipt of offers. The County reserves the right to solely determine the materiality of any solicitation amendment in relation to its acknowledgement. Offerors may acknowledge solicitation amendments by one of the following:

- By returning one signed copy of the amendment either with the Offeror's response to the solicitation or by sending a signed copy of the amendment separately to the Office of Procurement.
- By acknowledging receipt of the amendment on the Acknowledgment (see page 4) submitted.
- By stating that the amendment is acknowledged in a signed letter that refers to the solicitation and amendment numbers and submitted with the proposal or prior to the proposal's due date and time.

**SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)**

If an offeror desires to change a proposal that has already been submitted, the change may be made by a signed letter that refers to the solicitation and amendment numbers. The change must be received at the place designated prior to the hour and date specified in the solicitation (as amended) for receipt of offers.

**SOLICITATION PREPARATION EXPENSES**

All costs incurred in the preparation and submission of a firm's proposal will be borne by the offeror and shall not be incurred in anticipation of receiving reimbursement from the County.

**TIE SCORING**

In case of a tie in the numerical Qualification and Selection Committee scoring, the tie will be resolved by offering the proposed contract to the Offeror who has its principal place of business in Montgomery County, Maryland. If still tied, then the tie will be resolved in accordance with the criteria in the order stated under Procurement Regulation 4.1.2.4(f).

**VERBAL EXPLANATIONS**

Verbal explanations or instructions given by a Montgomery County employee to an offeror in regard to this solicitation will not be binding on the County. Any information given to an offeror in response to a request will be furnished to all offerors as an amendment to this solicitation, if such information is deemed necessary for the preparation of solicitations, or if the lack of such information would be detrimental to the uninformed offerors. Such amendments only, when issued by the Director, Office of Procurement, will be considered as being binding on the County.

**END SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES**

**SECTION B - GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR****1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION**

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

**2. AMERICANS WITH DISABILITIES ACT**

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5.

**3. APPLICABLE LAWS**

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The prevailing wage law (County Code §11B-33C) applies to construction contracts. Specifically, under County law, a County financed construction contract is subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the provision entitled "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor").

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Md. State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

Contractor and all of its subcontractors must provide the same benefits to an employee with a domestic partner as provided to an employee with a spouse, in accordance with County Code §11B-33D. An aggrieved employee, is a third-party beneficiary who may, by civil action, recover the cash equivalent of any benefit denied in violation of §11B-33D or other compensable damages.

The contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

#### 4. ASSIGNMENTS AND SUBCONTRACTS

The contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests.

#### 5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

#### 6. CONTRACT ADMINISTRATION

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Office of Procurement;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

#### 7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

**8. DISPUTES**

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

**9. DOCUMENTS, MATERIALS AND DATA**

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

**10. DURATION OF OBLIGATION**

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

**11. ENTIRE AGREEMENT**

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

**12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS**

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under the Election Law at Md. Code Ann., Title 14.

**13. GUARANTEE**

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

#### 14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

#### 15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, for, the contractor or the County.

#### 16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

#### 17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

#### 18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other

expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

#### 19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

#### 20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

#### 21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Thirty days written notice to the County of cancellation or material change in any of the policies is required, unless a longer period is required by applicable law. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

**TABLE A. - INSURANCE REQUIREMENTS**  
 (See Paragraph #21 Under the General Conditions of Contract  
 Between County and Contractor)

CONTRACT DOLLAR VALUES (IN \$1,000's)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by				
Accident (each)	100	100	100	See
Disease (policy limits)	500	500	500	Attachment
Disease (each employee)	100	100	100	
Commercial General Liability	300	500	1,000	See
minimum combined single limit				Attachment
for bodily injury and property				
damage per occurrence, including				
contractual liability, premises				
and operations, and independent				
contractors				
Minimum Automobile Liability				
(including owned, hired and non-				
owned automobiles)				
Bodily Injury				
each person	100	250	500	See
each occurrence	300	500	1,000	Attachment
Property Damage				
each occurrence	300	300	300	
Professional Liability*	250	500	1,000	See
for errors, omissions				
Attachment				
and negligent acts, per				
claim and aggregate, with				
one year discovery period and				
maximum deductible of \$25,000				

Certificate Holder

Montgomery County Maryland (Contract #)  
 Office of Procurement  
 Rockville Center  
 255 Rockville Pike, Suite 180  
 Rockville, Maryland 20850-4166

\*Professional services contracts only

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**TABLE B. - INSURANCE REQUIREMENTS**  
 (See Paragraph #21 Under the General Conditions of Contract  
 Between County and Contractor)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>	
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See	Attachment

Certificate Holder

Montgomery County Maryland (Contract #)  
 Office of Procurement  
 Rockville Center  
 255 Rockville Pike, Suite 180  
 Rockville, Maryland 20850-4166

**(Remainder of Page Intentionally Left Blank)**

**22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT**

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

**23. NON-CONVICTION OF BRIBERY**

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

**24. NON-DISCRIMINATION IN EMPLOYMENT**

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

**25. PAYMENTS**

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account ("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's p-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

**26. PERSONAL PROPERTY**

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

**27. PROTECTION OF PERSONAL INFORMATION BY GOVERNMENT AGENCIES**

In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

**28. TERMINATION FOR DEFAULT**

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

**29. TERMINATION FOR CONVENIENCE**

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

**30. TIME**

Time is of the essence.

**31. WORK UNDER THE CONTRACT**

Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

**32. WORKPLACE SAFETY**

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

SECTION C - SCOPE OF SERVICES:1. BACKGROUND

Montgomery County provides residential recycling collection services to 214,000+ single family and town homes each week. Residents place paper, cardboard, and paperboard (fiber) into recycling carts for pick-up by contracted private collectors. The County currently offers two sizes of carts for residents to use for their fiber recycling; either 32 or 64 gallon capacity. The majority of carts on the street at this time have been in service for 10 or more years. The carts we seek must be approximately 35 and 65 gallons respectively. Carts must also be able to endure rough handling by the collection contractors and withstand inclement weather conditions and temperature ranges of 5 to 105 degrees Fahrenheit.

2. INTENT

The intent of the RFP is to procure recycling carts of two sizes to be used in the Montgomery County, Maryland curbside residential recycling collection program.

3. SCOPE OF SERVICES

- a. The contractor is to provide two (2) sizes of wheeled carts that have a capacity of approximately 35 and 65 U. S. gallons. Each must come with a lift bar and an attached lid. The color of the 35 and the 65 gallon carts must be similar to PMS Reflex Blue No. 072M. The contractor must submit color samples as part of the proposal. Final color selection is subject to the approval of the County. Black is the preferred lid color if available.
- b. The contractor must deliver carts as needed in accordance with the delivery requirements specified in SECTION I, SPECIAL TERMS AND CONDITIONS. The County does not guarantee it will order any minimum number of carts. However the County has distributed a combined total of approximately 5,800 carts annually since 2013.
- c. The Offeror must also have in place a program to pick up broken recycling carts from the County, transport, and recycle them.

4. WORK STATEMENT

The contractor must manufacture the specified recycling carts and deliver them in accordance with the delivery requirements. Due to the range of technical variations in the properties of different plastic materials, industry variations in cart styles and dimensions, and subtle differences in other characteristics, the County chose not to provide detailed specifications for the carts but rather chooses to evaluate cart samples and select the cart that will best serve the needs of the County. However; carts must meet the basic capacity and color requirements, and be suitable for all weather heavy duty use

5. CONTRACTOR QUALIFICATIONS

The contractor must meet or exceed all the standards and qualifications as defined in this RFP. The contractor's products must meet or exceed all the standards and specifications as defined in this RFP.

6. CONTRACTOR RESPONSIBILITIES

The contractor must manufacture, prepare for shipping, and deliver carts in accordance with the requirements contained in SECTION I, SPECIAL TERMS AND CONDITIONS. The carts must be of the same quality and color as the sample carts provided with the contractors proposal.

7. COUNTY RESPONSIBILITY

The County will arrange for the unloading of carts at the designated delivery location(s) provided the order of carts arrives stacked to ensure security and stability. This allows for the safe and efficient unloading of the carts by County staff. The County will pay all approved invoices within 30 days of receipt.

## **SECTION D - PERFORMANCE PERIOD**

### **1. TERM**

The effective date of this Contract begins upon signature by the Director, Department of General Services and ends two years from that date. Contractor must also perform all work in accordance with time periods stated in the Scope of Work. Before this term for performance ends, the Director at his/her sole option may (but is not required to) renew the term. Contractor's satisfactory performance does not guarantee a renewal of the term. The Director may exercise this option to renew this term three (3) times for one (1) year each.

### **2. PRICE ADJUSTMENTS**

Prices quoted are firm for a period of one (1) years after execution of the contract. Any request for a price adjustment, after this one year period is subject to the following:

- a. Approval or rejection by the Director Department of General Services or designee
- b. Submitted in writing to the Director, Department of General Services and accompanied by supporting documentation justifying the Contractor's request. A request for any price adjustment may not be approved unless the contractor submits to the county sufficient justification to support that the Contractor's request is based on its net increase in costs in delivering the goods/services under the contract.
- c. Submitted sixty (60) days prior to contract expiration date, if the contract is being amended.
- d. May not be approved which exceeds the amount of the annual percentage change of the Consumer Price Index (CPI) for the twelve-month period immediately prior to the date of the request. The request shall be based upon the CPI for all urban consumers issued for the Washington-Baltimore, DC-MD-VA-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for PLASTICS MATERIAL AND RESINS MANUFACTURING.
- e. The County will approve only one price adjustment for each contract term, if a price adjustment is approved.
- f. Should be effective sixty (60) days from the date of receipt of the contractor's request.
- g. Executed by written contract amendment.

## **SECTION E - METHOD OF AWARD/EVALUATION CRITERIA**

### **1. PROCEDURES**

- a. Upon receipt of proposals, the Qualification and Selection Committee (QSC) will review and evaluate all proposals in accordance with the evaluation criteria listed below under Section E.2.a. The QSC will also review an offeror for responsibility.
- b. Product sample evaluations will be conducted by the QSC in accordance with the evaluation criteria listed below under Section E.2.b.
- c. Vendor interviews will not be conducted.
- d. The QSC will make its award recommendation of the highest ranked offeror based on the QSC's combined written score and product evaluation score, and its responsibility determination.
- e. The Using Department Head will review and forward the QSC recommendation with concurrence, objection, or amendment to the Director, Department of General Services.
- f. The Director, Department of General Services, may approve, approve with conditions, or reject the Using Department Head's recommendation.
- g. Upon approval of a recommended award to a proposed awardee(s), by the Director, Department of General Services, the County will enter into negotiations with the proposed awardee(s). If a contract cannot be successfully negotiated with the proposed awardee, the Using Department will proceed to negotiations with the next highest ranked offeror after obtaining approval from

the Director. If the Director approves, negotiations may be held simultaneously or successively with one or more offerors prior to making an award.

- h. After the successful conclusion of negotiations, the Director will publicly post the name(s) of the proposed awardee(s).
- i. The County reserves the right to cancel the solicitation. The solicitation cancellation will be publicly posted.

## 2. EVALUATION CRITERIA

EVALUATION CRITERIA		POINTS
a. Written Proposal Evaluation Criteria: The QSC will evaluate the written proposals based on the following criteria.		
1.	Offeror's history of successful production and prompt delivery of durable, long lasting carts in curbside recycling and/or refuse collection programs, similar in size to Montgomery County. Offeror's demonstrated ability to meet order requirements for large quantities of carts.	20
2.	Durability of carts as supported by the technical submittals and other documentation.	20
3.	Term and quality of the warranty submitted by the manufacturer	20
4.	Cost per 35 gallon cart	10
5.	Cost per 65 gallon cart	30
	Highest possible QSC score for written proposal evaluation:	100
b. Product Evaluation Criteria. The QSC will evaluate cart samples based on the following criteria:		POINTS
1.	Drop test of an empty cart from a minimum height of 10 feet onto a concrete surface. Impact test to determine cart's durability when struck by a moving vehicle traveling at low speed.	25
2.	Cart structural design, including lid and hinges, wheels, and lift bars. The carts strength, durability, stability and flexibility	25
3.	Ergonomics and quality of materials, finish and color; ease of use.	25
4.	Capacity and overall suitability for intended use	25
	Highest possible QSC score for interview evaluation:	100

## SECTION F - SUBMISSIONS

### 1. PROPOSAL SUBMISSIONS

FAILURE OF AN OFFEROR TO SUBMIT ALL REQUIRED PROPOSAL SUBMISSIONS MAY RENDER YOUR PROPOSAL UNACCEPTABLE AS DETERMINED BY THE DIRECTOR, DEPARTMENT OF GENERAL SERVICES.

Offerors must submit one (1) original and four (4) copies of their proposal in the format below. Written proposals will be evaluated on only what is submitted. The offeror must submit sufficient information to enable the QSC to evaluate the offeror's capabilities and experience. Proposals must include the following information (including labeled sections numbered as shown):`

- a. A cover letter with a brief description of the firm, including the offeror's name, address, telephone number and fax number.
- b. The Acknowledgment (page 4) of this solicitation must be submitted and signed by a person authorized to bind the offeror to the proposal.

- c. At least three (3) references that may be contacted to attest to the quality and timeliness of the offeror's work of similar nature and scope to the scope required by the County. (see Attachment A)
- d. If this solicitation is subject to the Wage Requirements Law (see page 1), then the offeror must submit the appropriate Wage Requirements forms in Attachment G. Failure to submit and complete the required material information on the form(s) will make your proposal unacceptable under County law and will be rejected.
- e. Metropolitan Washington Council of Governments Rider Clause - Attachment B
- f. Minority, Female, Disabled Persons Subcontractor Performance Plan (Attachment D). **To ensure a contract can move forward as a result of this solicitation, this plan needs to be submitted with your proposal.**
- g. Minority Business Program and Offeror's Representation - Attachment C.
- h. Description of how offeror's will meet the requirements as stated in the scope of services and special terms and conditions.
- i. Technical and other documentation that describes the durability of the bins. Including past experience in producing these type of bins for a jurisdiction of similar size requirements as Montgomery County.
- j. Style and color samples, and technical specifications of Offer's carts
- k. Details of the Offeror's warranty for the carts.
- l. Proposed price per cart.
- m. One (1) 35 gallon cart for product evaluation (Section E.2(b)).
- n. One (1) 65 gallon cart for product evaluation (Section E.2(b)).

## 2. AWARD SUBMISSIONS

Prior to the execution of the contract, the following items must be submitted:

- a. Minority, Female, Disabled Person Subcontractor Performance Plan (contract value greater than \$50,000) – Attachment D
- b. Offeror's Certification of Cost and Price (contract value greater than \$100,000) – Attachment E
- c. Certificate of Insurance (see mandatory insurance requirements) - Attachment F  
Awardee must provide the applicable insurance coverage and all costs for this coverage must be calculated into your proposal price. These insurance requirements supersede those found in Provision #21 of the General Conditions between County and Contractor and are applicable to any contract executed as a result of this solicitation.
- d. If this solicitation is subject to the Wage Requirements Law (see page 1), then the offeror must submit a Certification of posting a Wage Requirements notice.

## SECTION G - COMPENSATION

The contractor will be paid on a monthly basis within 30 days of submission of an acceptable and proper invoice, approved by the County.

## SECTION H - CONTRACT ADMINISTRATOR

### 1. AUTHORITY

The Director, Office of Procurement, is the delegated contracting officer. Therefore, the Director, Office of Procurement, must approve amendments, modifications, or changes to the terms, conditions, or minority, female, and disabled subcontractor plans in writing.

**2. USING DEPARTMENT**

Along with the duties and responsibilities outlined in Section B, General Provisions of Contract between County & Contractor, Provision #6 - Contract Administration, the Contract Administrator shall be responsible for:

- A. Instructing the Contractor of the details of work required including the labor and the material/equipment to be used.
- B. Approving the Contractor's maintained record of time and material used for the job. The Administrator must sign and date these records.
- C. Inspecting all work performed and authorizing payment upon acceptance.

The designated Contract Administrator for this contract is: G.A. Corrick, Division of Solid Waste.

**SECTION I - SPECIAL TERMS AND CONDITIONS****1. CART COLOR AND LOGO**

- a. Carts must be colored similar to PMS Pantone Reflex Blue No. 072M. A color sample must be provided prior to manufacture.
- b. All carts must be hot stamped in white with the Montgomery County Seal on one side. The County will provide artwork for the seal.
- c. Under the County Seal will be the words: Recycle More Now
- d. On the opposite side will be a hot stamp of the Mobius Loop; the recycling logo of three chasing arrows in white.
- e. Below the Mobius Loop will be the words All Paper, Paperboard & Cardboard
- f. Below those words shall be the County website address:  
[www.montgomerycountymd.gov/solidwaste](http://www.montgomerycountymd.gov/solidwaste).
- g. The hot stamps shall be sized and printed on the carts as large as space allows. Sample artwork is provided in Attachment I.
- h. A copy of the artwork must be submitted to the County and approved prior to manufacture.

**2. DELIVERY REQUIREMENTS**

- a. Deliveries shall be made within 45 days of submission of order.
- b. Deliveries shall be destination freight prepaid, and shall be made on Fridays (except County holidays).
- c. Deliveries must be made between the hours of 8:30 a.m. and 12:30 p.m.
- d. Arrangements for deliveries must be coordinated by notifying G. A. Corrick, 240-777-6405, at least 48 hours in advance.
- e. Carts must be prepared for shipping and delivered in a manner that ensures the carts are stable and will arrive undamaged. Carts must be prepared to be easily unloaded.
- f. The County reserves the right to impose additional delivery and packing requirements at no additional cost, if stacks of carts arrive in an unstable condition, are packed in a manner that causes damage to some carts, or creates a safety hazard to personnel unloading the carts.
- g. Carts that arrive damaged or incur damage during unloading due to improper preparation or shipping will be replaced by the contractor. Replacement carts will be shipped to the County at no additional cost, including shipping.
- h. All deliveries and pick-ups shall be made at 6001 Olney Laytonsville Rd., Laytonsville, Maryland 20882.

**SECTION J - ETHICS**

As a result of being awarded this contract the successful contractor may be ineligible for the award of related contracts. Montgomery County Code Sections 11B-52(b) and (c) state:



A contractor providing an analysis or recommendation to the County concerning a particular matter must not, without first obtaining the written consent of the Chief Administrative Officer:

- 1) Assist another party in the matter or another person if the person has a direct and substantial interest in the matter; or
- 2) Seek or obtain an economic benefit from the matter in addition to payment to the contractor by the County.

**ATTACHMENT A****REFERENCES**

(must submit at least three)

You are requested to provide references to the County with your proposal. The three (3) references must be from individuals or firms currently being serviced or supplied under similar contracts, or for whom work of a similar scope has been performed within the last year. Names for references shall be of individuals who directly supervised or had direct knowledge of the services or goods provided. Failure of an offeror to provide the County with references within the time frame as stated herein may result in the offeror being considered non-responsible.

NAME OF

FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

NAME OF

FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

NAME OF

FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**ATTACHMENT B****MID-ATLANTIC PURCHASING TEAM RIDER CLAUSE****USE OF CONTRACT(S) BY MEMBERS COMPRISING MID-ATLANTIC PURCHASING TEAM COMMITTEE****A. Extension to Other Jurisdictions**

The [issuing jurisdiction] extends the resultant contracts(s), including pricing, terms and conditions to the members of the Mid-Atlantic Purchasing Team, as well as all other public entities under the jurisdiction of the United States and its territories.

**B. Contract Agreement**

Any jurisdiction or entity using the resultant contract(s) may enter into its own contract with the successful Contractors(s). There shall be no obligation on the party of any participating jurisdiction to use the resultant contract(s). Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to the jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue.

**C. A negative reply will not adversely affect consideration of you bid.****D. It is the awarded offeror's responsibility to notify the members shown below of the availability of the Contract(s)****E. The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to the jurisdiction by the awardee.****F. Inclusion of Governmental and Nonprofit Participants (Optional Clause)**

This shall include but not be limited to private schools, Parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government and/or state community and/or private colleges/universities that require these goods, commodities and/or services.

**G. Notification and Reporting**

The Contractor agrees to notify the issuing jurisdiction of those entities that wish to use any contract resulting from this solicitation and will also provide usage information, which may be requested. The Contractor will provide the copy of the solicitation and resultant contract documents to any requesting jurisdiction or entity.

**MID-ATLANTIC PURCHASING TEAM:**

<u>YES</u>	<u>NO</u>	<u>JURISDICTION</u>	<u>YES</u>	<u>NO</u>	<u>JURISDICTION</u>
		Alexandria, Virginia			Howard County Schools
		Alexandria Public Schools			Herndon, Virginia
		Alexandria Sanitation Authority			Leesburg, Virginia
		Annapolis City			Loudoun County, Virginia
		Anne Arundel County			Loudoun County Public Schools
		Anne Arundel Schools			Loudoun County Water Authority
		Arlington County, Virginia			Manassas, Virginia
		Arlington County Public Schools			City of Manassas Public Schools
		Baltimore City			Manassas Park, Virginia
		Baltimore County Schools			MD-National Capital Park & Planning Comm.
		Bladensburg, Maryland			Metropolitan Washington Airports Authority
		Bowie, Maryland			Metropolitan Washington Council of Governments
		BRCP			Montgomery College
		Carroll County			Montgomery County Public Schools
		Carroll County Schools			Prince George's County, Maryland
		Charles County Government			Prince George's Public Schools
		Charles County Schools			Prince William County, Virginia
		City of Fredericksburg			Prince William County Public Schools
		College Park, Maryland			Prince William County Service Authority
		District of Columbia Government			Rockville, Maryland
		District of Columbia Schools			Spotsylvania County Govt. & Schools
		District of Columbia Water & Sewer Auth.			Stafford County, Virginia
		Fairfax County, Virginia			Takoma Park, Maryland
		Fairfax County Water Authority			Upper Occoquan Sewage Authority
		Falls Church, Virginia			University of the District of Columbia
		Fauquier County Schools & Govt., Virginia			Vienna, Virginia
		Frederick, Maryland			Washington Metropolitan Area Transit Auth.
		Gaithersburg, Maryland			Washington Suburban Sanitary Commission
		Greenbelt, Maryland			Winchester, Virginia
		Harford County			Winchester Public Schools
		Harford County Schools			
		Howard County			

---

 Vendor Name

RFP#1052323  
**ATTACHMENT C**

**MINORITY BUSINESS PROGRAM & OFFEROR'S REPRESENTATION**

It is the policy of the County to recruit actively, minority-owned businesses to provide goods and services to perform governmental functions pursuant to Section 11B-57 of the County Code. Minority-owned businesses are described in County law as Minority/Female/Disabled Person owned businesses (MFD). MFD businesses include certain non-profit entities organized to promote the interests of persons with a disability demonstrating (on a contract by contract basis) that at least 51% of the persons used by the non-profit entity to perform the services or manufacture the goods contracted for by the County, are persons with a disability. MFD firms also include those firms that are 51% owned, controlled and managed by one or more members of a socially or economically disadvantaged minority group, which include African Americans who are not of Hispanic origin, Hispanic Americans, Native Americans, Asian Americans, Women and Mentally or Physically Disabled Persons.

Section 7 - "Minority Contracting", Montgomery County Procurement Regulations specifies the procedure to be followed and will govern the evaluation of offers received pursuant to this solicitation. A copy of Section 7 of the Procurement Regulations is available upon request.

Prior to awarding contracts with a value of \$50,000 or more, a prospective Contractor (who is not a certified MFD firm) must demonstrate that a minimum percentage of the overall contract value as set by the County, will be subcontracted to certified MFD businesses. A decision as to whether the prospective Contractor has demonstrated a good faith effort to meet this subcontracting requirement will be made by the Director, Office of Procurement, or his/her designee, who may waive this requirement.

A sample of the MFD Report of payment Received is attached. This form is mailed to the MFD Subcontractor to complete for documentation of payment by the Prime Contractor. It is not to be completed by the Prime Contractor nor submitted with the MFD Subcontractor Performance Plan.

The Director, Office of Procurement, or his /her designee determines whether a waiver of MFD subcontracting would be appropriate, under Section 7.3.3.5 of the Procurement Regulations.

For further information regarding the MFD Business Program, please contact the MFD Program, Office of Business Relations and Compliance at (240) 777-9912.

---

Offerors are encouraged (but not required) to complete the following:

I hereby represent that this is a Minority Business firm as indicated below (CIRCLE ONE):

AFRICAN AMERICAN	ASIAN AMERICAN	DISABLED PERSON
FEMALE	HISPANIC AMERICAN	NATIVE AMERICAN

Attach one of the following certification documents from: Maryland Department of Transportation (MDOT); Virginia Small, Women & Minority-Owned Business; Federal SBA 8(a); MD/DC Minority Supplier Development Council, Women's Business Enterprise National Council; or City of Baltimore.



**Montgomery County MFD Report of Payments Received For Office Use  
Office of Business Relations and Compliance**

**SAMPLE ONLY! NOT TO BE USED BY PRIME**

MFD Subcontractor Company Name: \_\_\_\_\_

Prime Contractor Company Name: \_\_\_\_\_

Contract Number/Title: \_\_\_\_\_

Project Location: \_\_\_\_\_

MFD Subcontract Amount: \$ \_\_\_\_\_

**PLEASE READ CAREFULLY BEFORE SIGNING**

This certifies that for the month of \_\_\_\_\_, my company received \$ \_\_\_\_\_ for work performed, services rendered and/or materials supplied on the above contract.

TOTAL AMOUNT OF SUBMITTED INVOICES TO  
DATE: \$ \_\_\_\_\_

TOTAL PAYMENTS RECEIVED TO DATE: \$ \_\_\_\_\_

Are you experiencing any contract problems with the prime contractor and/or the project? YES ☐ NO ☐

Comments: \_\_\_\_\_

I certify that the above information is true and accurate to the best of my record documentation and knowledge.

\_\_\_\_\_  
(TYPED/PRINTED COMPANY NAME)

\_\_\_\_\_  
(TYPED/PRINTED NAME OF COMPANY OFFICIAL)

\_\_\_\_\_  
(TITLE)

\_\_\_\_\_  
(SIGNATURE OF COMPANY OFFICIAL)

\_\_\_\_\_  
(DATE)

( ) - ( ) -  
TELEPHONE FAX E-MAIL

Return by: Email – [MFD@montgomerycountymd.gov](mailto:MFD@montgomerycountymd.gov) or FAX – 240-777-9952

For assistance, contact the MFD Office at 240-777-9912

**ATTACHMENT D****Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor**

A. This contract is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program.

B. Contractor must subcontract a percentage goals listed below of the total dollar value of the contract, including all modifications and renewals, to certified minority owned businesses. The MFD subcontracting goal may be waived under appropriate circumstances by submission of a letter to the Minority Business Program Manager. The letter must explain why a waiver is appropriate. The Director of the Office of Procurement or designee may waive, in whole or in part, the MFD subcontracting goal if the Director determines that a waiver is appropriate under Section 7.3.3.5 of the Montgomery County Procurement Regulations. In determining if a waiver should be granted, the Director may require the Contractor to submit additional information; the Director may require the Contractor to submit some or all of this information on forms approved by the Director.

Below are goals set for each purchasing category for the total value and life of the contract award:

•	Construction	<b>27%</b>
•	Professional Services	<b>18%</b>
•	Non-professional Services	<b>25%</b>
•	Goods	<b>14%</b>

C. The attached MFD Subcontractor Performance Plan, which must be approved by the Director, is an integral part of the contract between County and Contractor. In a multi-term contract, Contractor must submit a MFD Subcontract Performance Plan to be in effect for the life of the contract, including any renewal or modification.

D. Contractor must include in each subcontract with a minority owned business a provision that requires the use of binding arbitration with a neutral arbitrator to resolve disputes between the Contractor and the minority owned business subcontractor. This arbitration provision must describe how the cost of dispute resolution will be apportioned; the apportionment must not, in the judgment of the Director, attempt to penalize a minority owned business subcontractor for filing an arbitration claim.

E. County approval of the MFD Subcontractor Performance Plan does not create a contractual relationship between the County and the minority owned business subcontractor.

F. Contractor must notify and obtain prior written approval from the Director regarding any change in the MFD Subcontractor Performance Plan.

G. Before receiving final payment under this contract, Contractor must submit documentation showing compliance with the MFD Subcontracting Performance Plan. Documentation may include, at the direction of the Director, invoices, copies of subcontracts with minority owned businesses, cancelled checks, affidavits executed by minority owned business subcontractors, waivers, and arbitration decisions. The Director may require Contractor to submit periodic reports on a form approved by the Director. The Director may conduct an on-site inspection for the purpose of determining compliance with the MFD Subcontractor Performance Plan. If this is a multi-term contract, final payment means the final payment due for performance rendered for each term of the contract.

If the Contractor fails to submit documentation demonstrating compliance with the MFD Subcontractor Performance Plan, to the satisfaction of the Director, after considering relevant waivers and arbitration decisions, the Contractor is in breach of this contract. In the event of a breach of contract under this addendum, the Contractor must pay to the County liquidated damages equal to the difference between all amounts the Contractor has agreed under its Plan to pay minority owned business subcontractors and all amounts actually paid minority owned business subcontractors with appropriate credit given for any relevant waiver or arbitration decision. Contractor and County acknowledge that damages which would result to the County as a result of a breach under this addendum are difficult to ascertain, and that the liquidated damages provided for in this addendum are fair and reasonable in estimating the damage to the County of a breach of this addendum by Contractor. In addition, the County may terminate the contract. As the result of a breach under this addendum, The Director of the Department of General Services must find the Contractor non-responsible for purposes of future procurement with the County for the ensuing three years.

**MONTGOMERY COUNTY, MARYLAND**  
**MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR**  
**PERFORMANCE PLAN**

Contractor's

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

CONTRACT NUMBER/PROJECT DESCRIPTION: \_\_\_\_\_

A. Individual assigned by Contractor to ensure Contractor's compliance with MFD Subcontractor Performance Plan:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

B. This Plan covers the life of the contract from contract execution through the final contract expiration date.

C. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is \_\_\_\_\_% of the total dollars awarded to Contractor.

D. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

I hereby certify that the business(s) listed below are certified by one of the following: Maryland Department of Transportation (MDOT); Virginia Small, Woman and Minority Owned Business (SWAM); Federal SBA (8A); MD/DC Minority Supplier Development Council (MSDC); Women's Business Enterprise National Council (WBENC); or City of Baltimore.

A Certification Letter must be attached.

For assistance, call 240-777-9912.

1. Certified by: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor :

\_\_\_\_\_

This subcontractor will provide the following goods and/or services:

---

---

2. Certified by:

Subcontractor Name:

Title:

Address:

City:

State:

Zip:

Phone Number:

Fax Number:

Email:

CONTACT PERSON:

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

---

---

3. Certified by:

Subcontractor Name:

Title:

Address:

City:

State:

Zip:

Phone Number:

Fax Number:

Email:

CONTACT PERSON:

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

---

---

4. Certified By:

Subcontractor Name:

Title:

Address:



City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor: \_\_\_\_\_

This subcontractor will provide the following goods and/or services: \_\_\_\_\_  
\_\_\_\_\_

E. The following language will be inserted in each subcontract with a certified minority owned business listed in D above, regarding the use of binding arbitration with a neutral arbitrator to resolve disputes with the minority owned business subcontractor; the language must describe how the costs of dispute resolution will be apportioned:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

F. Provide a statement below, or on a separate sheet, that summarizes maximum good faith efforts achieved, and/or the intent to increase minority participation throughout the life of the contract or the basis for a full waiver request.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

G. A full waiver request must be justified and attached.

Full Waiver Approved:

Partial Waiver Approved:

\_\_\_\_\_ Date: \_\_\_\_\_

MFD Program Officer

\_\_\_\_\_ Date: \_\_\_\_\_

MFD Program Officer

Full Waiver Approved:

Partial Waiver Approved:

\_\_\_\_\_ Date: \_\_\_\_\_

Director  
Cherri Branson  
Office of Procurement

Director  
Cherri Branson  
Office of Procurement

The Contractor submits this MFD Subcontractor Performance Plan (Plan Modification No. \_\_\_\_\_) in accordance with the Minority Owned Business Addendum to General Conditions of Contract between County and Contractor.

CONTRACTOR SIGNATURE

USE ONE:

1. TYPE CONTRACTOR'S NAME: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date

2. TYPE CORPORATE CONTRACTOR’S NAME: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date

I hereby affirm that the above named person is a corporate officer or a designee empowered to sign contractual agreements for the corporation.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

APPROVED:

\_\_\_\_\_  
Cherri Branson, Director, Office of Procurement

\_\_\_\_\_  
Date

Section 7.3.3.4(a) of the Procurement Regulations requires:  
The Contractor must notify the Director, Office of Procurement, of any proposed change to the Subcontractor Performance Plan.

**ATTACHMENT E**

**OFFEROR'S CERTIFICATION OF COST AND PRICE**

The Director, Office of Procurement, has the authority to require that contract cost and pricing principles are followed. Cost and Pricing Data must be submitted by offerors or contractors in the attached format prior to the execution of any contract or contract amendment based on the following:

1. A competitively negotiated contract valued at more than \$100,000.
2. A non-competitive contract valued at more than \$50,000.
3. Any contract modification for which the price adjustment is expected to exceed \$50,000, except contract modifications that are fully in accordance with the terms and conditions of the contract.
4. Any other contracts or contracts modification, as may be required by the CAO or Director.

**OFFEROR'S CERTIFICATION**

This cost proposal reflects our best estimates and/or actual costs as of this date, and it conforms to the cost exhibits and schedules provided by the County's Office of Procurement. By submitting this proposal, the offeror grants the contracting officer or an authorized representative the right to examine, as the basis for pricing that will permit an adequate evaluation of the proposed price, books, records, documents, and other types of factual information, if specifically referenced or included in the cost proposal.

The offeror also agrees that the price to the County, including profit or fee, may, at the option of the County, be adjusted to reduce the price to the County to the extent that the price was based on inaccurate, incomplete, or non-current data supplied by the offeror.

---

Name

---

Title

---

Name of Firm

---

Date of Submission

---

Signature of Authorized Representative

## **COST AND PRICE REQUIREMENTS**

By submitting your proposal, you, if selected for negotiation, grant the Contracting Officer or an authorized representative the right to examine those books, records, documents and any other supporting data that will permit adequate evaluation of the proposed price. This right may be exercised at any time prior to award of a contract. The Montgomery County Government may utilize an independent contractor for cost and price analysis or to examine your books and records.

The Cost/price for any resultant contract will be negotiated on the basis of the successful offeror's normal estimating and/or accounting system or the system set forth in Cost Accounting Standards Board Disclosure Statement as required by Public Law 100-679.

Prior to contract execution, the intended awardee may be required to provide the following information;

- A. Latest and previous year's financial statement or profit and loss statement.
- B. Burdened rate verification detailing the composition and value of the elements of Fringe Benefits, Overhead, General and Administrative Overhead, Profit or Fee.

**ATTACHMENT F**

**MANDATORY INSURANCE REQUIREMENTS**

(Department/Agency Must Obtain Insurance Requirements from the Division of Risk Management and Insert the Information in this Location. Please delete this note from the final solicitation document.)

**ATTACHMENT G**Wage Requirements for Services ContractAddendum to The General Conditions of Contract Between County and Contractor

- A. This contract is subject to the Wage Requirements Law, found at Section 11B-33A of the Montgomery County Code (“Wage Law” or “WRL” or “11B-33A”). A County contract for the procurement of services must require the contractor and any of its subcontractors to comply with the Wage Requirements Law, subject to the exceptions for particular contractors noted in 11B-33A (b) and for particular employees noted in 11B-33A (f).
- B. Conflicting requirements (11B-33A (g)): If any federal, state, or County law or regulation requires payment of a higher wage, that law or regulation controls. If any applicable collective bargaining agreement requires payment of a higher wage, that agreement controls.
- C. A nonprofit organization that is exempt from the Wage Law under 11B-33A must specify the wage the organization intends to pay to those employees who will perform direct, measurable work under the contract, and any health insurance the organization intends to provide to those employees. Section 11B-33A (b)(3) & (c)(2).
- D. A contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor, to avoid the imposition of any requirement in 11B-33A.
- E. Each contractor and subcontractor covered under 11B-33A must: certify that it is aware of and will comply with the applicable wage requirements; keep and submit any verifiable records necessary to show compliance; and conspicuously post notices approved and/or supplied by the County, informing employees of the wage requirements. Section 11B-33A (h).
- F. An employer must comply with Section 11B-33A during the initial term of the contract and all subsequent renewal periods, and must pay the adjusted wage rate increase required under 11B-33A (e)(2), if any, which is effective July 1 of each year. The County will adjust the wage rate by the annual average increase in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or successor index, for the previous calendar year and must calculate the adjustment to the nearest multiple of 5 cents.
- G. An employer must not discharge or otherwise retaliate against an employee for asserting any right, or filing a complaint of a violation, under the WRL.
- H. The sanctions under Section 11B-33 (b), which apply to noncompliance with nondiscrimination requirements, apply with equal force and scope to noncompliance with the wage requirements of 11B-33A.
- I. The County may assess liquidated damages for any noncompliance by contractor or its subcontractor with Section 11B-33A based on the rate of 1% per day of the total contract amount, or the estimated annual contract value of a requirements contract, for each day of the violation. This liquidated damages amount includes the amount of any unpaid wages, with interest. In the event of a breach of contract under this paragraph, the Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimating the damage to the County resulting from a breach of this paragraph by Contractor. If a WRL compliance audit determines that the Contractor has violated requirements of the WRL, including but not limited to the wage requirements, the County may assess the Contractor for the cost incurred by the County in conducting the audit. In addition, the contractor is jointly and severally liable for any noncompliance by a subcontractor. Furthermore, Contractor agrees that an aggrieved employee, as a third-party beneficiary, may by civil action against the violating contractor or subcontractor enforce the payment of wages due under Section 11B-33A and recover from the Contractor or subcontractor any unpaid wages with interest, a reasonable attorney’s fee, and damages for any retaliation by the Contractor or subcontractor arising from the employee asserting any right, or filing a complaint of violation, under 11B-33A.
- J. The Director may conduct random audits to assure compliance with Section 11B-33A. The Director may conduct an on-site inspection(s) for the purpose of determining compliance. Some of the documents that may be required during an audit are listed on the Living Wage FAQ web page: <http://www.montgomerycountymd.gov/PRO/OBRC/LivingWage.html>
- K. The Contractor is in breach of this contract if the Contractor fails to submit timely documentation demonstrating compliance with Section 11B-33A to the satisfaction of the Director, including: the Wage Requirements Law Payroll Report Form (PMMD-183), which is required to be submitted by the end of the month (January, April, July, October) following each quarter;

documents requested in conjunction with a random or compliance audit being conducted by the County; or documents otherwise requested by the Director. In the event of a breach of contract under this paragraph, or for any other violation of the WRL, the County may assess against, or withhold from payment to, Contractor, the liquidated damages noted in paragraph I. above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimating the damage to the County resulting from a breach of this paragraph by Contractor.

- L. For any questions, please contact the Wage Law Program Manager at 240-777-9918 or [WRL@montgomerycountymd.gov](mailto:WRL@montgomerycountymd.gov) .

[Remainder of Page Intentionally Left Blank]

**Wage Requirements Law Certification**

(Montgomery County Code, Section 11B-33A)

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Provide, in the spaces below, the contact name and information of the individual designated by your firm to monitor your compliance with the County's Wage Requirements Law, unless exempt under Section 11B-33A (b) (see Section B. below):

Contact Name			Title	
Phone Number		Fax Number		
E-mail Address				

In the event that you, the "Offeror," are awarded the contract and become a Contractor, YOU MUST MARK ☒ or ☒ in ALL BOXES BELOW that apply.

☐ A. Wage Requirements Compliance

This Contractor, as a "covered employer", will comply with the requirements under County Code Section 11B-33A, "Wage Requirements" ("Wage Requirements Law" or WRL). Contractor and its subcontractors will pay all employees not exempt under the WRL, and who perform direct measurable work for the County, the required wage rate effective at the time the work is performed. The offer price(s) submitted under this solicitation include(s) sufficient funds to meet the requirements of the WRL. A "covered employer" must submit (preferably via email) quarterly (by the end of January, April, July, and October for the quarter ending the preceding month) certified payroll records for each payroll period and for all employees of the contractor or a subcontractor performing services under the County contract governed by the Wage Requirements Law, to the Office of Business Relations and Compliance, Attn: Wage Law Program Manager. These payroll records must include the following: name; position/title; gender/race (for contracts awarded after October 1, 2015); daily straight-time hours worked; daily overtime hours worked; straight-time hourly pay rate; overtime hourly pay rate; both employer and employee share of health insurance premium; and total gross wages paid for each period. A sample of the Payroll Report Form can be found at the below link.

(<http://www.montgomerycountymd.gov/PRO/OBRC/LivingWage.html>). In lieu of the Payroll Report Form, payroll registers generally satisfy the requirement. Late submission or non-submission of this information, or any other violation of the WRL, may result in the County withholding contract payments and additional actions by the County, including but not limited to: assessing liquidated damages, terminating the contract, or otherwise taking action to enforce the contract or the Wage Requirements Law. The Contractor must ensure that NO Social Security number of any person, other than the last four digits, is included on the quarterly report.

☐ B. Exemption Status (if applicable)

This Contractor is exempt from Section 11B-33A, "Wage Requirements," because it is:

1. Reserved – [Intentionally left blank].
- ☐ 2. a contractor who, at the time a contract is signed, has received less than \$50,000 from the County in the most recent 12-month period, and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Section 11B-33A (b)(1);
- ☐ 3. a public entity. Section 11B-33A (b)(2).



- ☐ 4. a non-profit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. Section 11B-33A (b)(3) (**must complete item C below**).
- ☐ 5. an employer expressly precluded from complying with the WRL by the terms of any federal or state law, contract, or grant. Section 11B-33A (b)(7) (**must specify the law, or furnish a copy of the contract or grant**).
- ☐ C. Nonprofit Wage & Health Information  
This Contractor is a non-profit organization that is exempt from coverage under Section 11B-33A (b)(3). Accordingly, the contractor has completed the 501 (c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form, which is attached. See Section 11B-33A (c)(2).
- ☐ D. Nonprofit's Comparison Price(s) (if desired)  
This Contractor is a non-profit organization that is opting to pay its covered employees the hourly rate specified in the wage requirements. Accordingly, Contractor is duplicating the blanket-cost quotation sheet on which it is submitting its price(s) in the RFP, and is submitting on this duplicate form its price(s) to the County had it not opted to pay its employees the hourly rate specified in the WRL. For proposal evaluation purposes, this price(s) will be compared to price(s) of another nonprofit organization(s) that is paying its employees an amount consistent with its exemption from paying the hourly rate under the WRL. This revised information on the duplicate cost sheet must be clearly marked as your nonprofit organization comparison price(s). In order for the County to compare your price(s), the revised information on the duplicate cost sheet must be submitted with your offer on or before the offer opening date, must show how the difference between your nonprofit organization price(s) and other organization comparison price(s) was calculated. Section 11B-33A (c)(2).
- ☐ E. Wage Requirements Law Reduction (not applicable after July 22, 2015)  
This Contractor is a "covered employer", and it desires to reduce its hourly rate paid under the WRL by an amount equal to, or less than, the per employee hourly cost of the employer's share of the health insurance premium. Contractor certifies that the per employee hourly cost of the employer's share of the premium for that insurance is: \$\_\_\_\_\_. Section 11B-33A (d) & (e).
- ☐ F. Sole Proprietorship  
Sole Proprietorships are subject to the Wage Requirements Law. In order to be excused from the posting and reporting requirements of the WRL, the individual who is the sole proprietor must sign the certifications below in order to attest to the fact that the Sole Proprietorship:
- (1) is aware of, and will comply with, the Wage Requirements Law;
  - (2) has no employees other than the sole proprietor; and
  - (3) will inform the Montgomery County Office of Business Relations and Compliance if the sole proprietor employs any workers other than the sole proprietor.

### Contractor Certification

CONTRACTOR SIGNATURE: Contractor submits this certification form in accordance with Section 11B-33A of the Montgomery County Code. Contractor certifies that it, and any and all of its subcontractors that perform services under the resultant contract with the County, adheres to Section 11B-33A of the Montgomery County Code.

Authorized Signature		Title of Authorized Person	
Typed or printed name		Date	

## 501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number		E-Mail	

Please provide below the employee labor category of all employee(s) who will perform direct measurable work under this contract, the hourly wage the organization pays for that employee labor category, and any health insurance the organization intends to provide for that employee labor category:

[illegible]

\* IF NO HEALTH INSURANCE PLAN IS PROVIDED PLEASE STATE "NONE".

**ATTACHMENT H****Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor**

The Contractor and all Subcontractors must comply with the Prevailing Wage Law contained in Chapters 11B-33C and 20-75 of the Montgomery County Code. Prevailing wage means the wage rate paid by employers that is determined by a governmental authority, based upon a particular geographic area, for a given class of labor and type of project. The purpose of a prevailing wage is to ensure that construction workers who work on public works contracts are paid the going rate for their services. The prevailing wage rates are established by the State of Maryland and apply to all of the Contractor's employees and any and all Subcontractors. The Contractor and all Subcontractors must comply with all of the requirements of the Prevailing Wage Law including, but not limited to, the following:

1. Pay employees the prescribed rate as annually established by the State of Maryland Commissioner of Labor and Industry; the prevailing wage rates in effect on the date a solicitation is issued will apply throughout the term of a contract resulting from that solicitation.
2. Pay employees overtime for work more than 10 hours in any single day, work more than 40 hours in a work week, or work on Sunday or legal holiday;
3. Classify employees in their proper work classification in conformance with the schedule established by the State of Maryland Commissioner of Labor and Industry;
4. Electronically submit payroll records through [www.LCPTracker.net](http://www.LCPTracker.net), within 14 days after the end of each payroll period, to verify that Prevailing Wage rates have been paid to employees. The payroll records must include the following:
  - A. The name, address and telephone number of the Contractor or Subcontractor;
  - B. The name and location of the job;
  - C. Each employee's:
    - a. Name;
    - b. Current address unless previously reported;
    - c. Specific work classification;
    - d. Daily straight time and overtime hours;
    - e. Total straight time and overtime hours for the payroll period;
    - f. Rate of pay;
    - g. Fringe benefits by type and amount;
    - h. Gross wages.
5. If a Contractor or any Subcontractors are late in submitting copies of any payroll records required to be submitted under the Prevailing Wage Law, the County may deem Contractor's invoice(s) submitted to the County for payment unacceptable until the Contractor and Subcontractors provide the required records; and, the County may postpone processing payments otherwise due under the Contract or under an agreement to finance the Contract;
6. The Contractor and all Subcontractors must retain all payroll records for a period not less than five (5) years after the Work is completed;
7. The County may inspect the payroll records at any reasonable time and as often as it deems necessary;
8. The County may perform random or regular audits and investigate any complaint of a violation of the Prevailing Wage Law;

9. In the event the County determines that a provision of the Prevailing Wage Law has been violated, the County may withhold payment to the Contractor in an amount sufficient to pay each employee of the Contractor or any Subcontractors the full amount of wages due under the Prevailing Wage Law, and an amount sufficient to satisfy a liability of a Contractor or any Subcontractors for liquidated damages as provided under the Prevailing Wage Law, pending a final decision on the violation by the County;
10. Contractor may appeal a written decision of the Director, Office of Procurement, that the Contractor violated a provision of the Prevailing Wage Law to the Chief Administrative Officer ("CAO"), within ten (10) days after receiving a copy of the decision. The CAO must designate a hearing officer to conduct a hearing upon receipt of a timely appeal. If the Contractor does not appeal a written decision within ten (10) days after receipt, the decision of the Director, becomes final and binding;
11. Contractor and all Subcontractors must not discharge, or otherwise retaliate against, an employee for asserting any right under the Prevailing Wage Law or for filing a complaint of a violation;
12. An aggrieved employee is a third-party beneficiary of this Contract and the employee may by civil action recover the difference between the prevailing wage for the type of work performed and the amount actually received, with interest and a reasonable attorney's fee; and
13. Each Contract subject to the Prevailing Wage Law may specify the payment of liquidated damages to the County by the Contractor and any Subcontractors for any noncompliance with the Prevailing Wage Law. Liquidated damages are: \$10 for each calendar day that the payroll records are late; \$20 per day for each day that an employee is misclassified; and \$50 per violation of the requirement to post the prevailing wage rates at the work site.
14. Where the initial Contract Sum is below the \$500,000.00 threshold, but it is subsequently increased and exceeds the \$500,000.00 threshold due to an approved Contract Modification, the amount of any such Contract Modification that causes the Contract Sum to exceed the \$500,000.00 threshold is subject to the Prevailing Wage Law.
15. The Contractor and all Subcontractors must post a clearly legible statement of each prevailing wage rate in a prominent and easily accessible place at the Work Site during the entire time Work is being performed, in English and any other language that is primarily spoken by the employees, at the Work Site.

**ATTACHMENT I**

**SAMPLE HOT STAMP**

(to be colored white)

Side #1



All Paper, Paperboard & Cardboard

Side #2



[www.montgomerycountymd.gov/solidwaste](http://www.montgomerycountymd.gov/solidwaste)