

Request for Qualifications (RFQ)
2024-366-WG
Solid Waste Consulting Services

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SECTION 0100

INSTRUCTIONS TO RESPONDENTS & GENERAL CONDITIONS

1. GENERAL. This Request for Qualifications (RFQ) is issued by the City of Miami Beach, Florida (the "City"), as the means for prospective Bidders to submit proposals for the City's consideration in evaluating qualifications to select a firm with whom it may negotiate agreement(s) for the purpose noted herein.

The City utilizes Periscope S2G (formerly known as BidSync) (www.periscopeholdings.com or www.bidsync.com) for automatic notification of competitive solicitation opportunities and document fulfillment, including the issuance of any addendum to this RFQ. Any prospective Bidder who has received this RFQ by any means other than through Periscope S2G must register immediately with Periscope S2G to ensure it receives any addendum issued to this RFQ. Failure to receive an addendum may result in disqualification of the Proposal submitted.

BACKGROUND

The City currently has two (2) non-exclusive franchise agreements issued to solid waste contractors for commercial and multi-family waste collection and disposal. The terms of the franchise agreements with the City's current franchise waste contractors were scheduled to expire on September 30, 2022. However, they were extended on a month-to-month basis until the new franchise agreements to be awarded pursuant to the contemplated RFQ became effective.

On October 5, 2023, in an effort to replace the City's existing Agreement(s), RFQ 2023-506-WG Franchise Waste Contractors to Provide Multi-Family Residential and Commercial Waste Collection and Disposal was issued.

On March 13, 2024, the Mayor and City Commission unanimously adopted Resolution No. 2024-32967, directing the Administration to terminate Request for Qualifications (RFQ) 2023-506-WG for non-exclusive franchise waste haulers to provide multi-family and commercial waste collection and to prepare an RFQ for a "single hauler" for such services.

2. PURPOSE. The City is seeking a qualified independent consultant to provide solid waste consulting services, including but not limited to, review and assessment of current operational functions, research of other coastal cities that may operate under a single hauler or hybrid model, including analysis, potential financial impacts for Fiscal Year 2025 and beyond for city-added responsibilities, and assistance with the development of a solicitation.

The selected consultant shall be precluded from bidding/responding to the competitive solicitation to provide commercial/residential waste management services.

2.1 Interested Parties. Interested parties are invited to submit proposals in accordance with Section 0300. A Pre-proposal conference will be held in accordance with Section 0100, Sub-sections 4 and 6. All proposals will be evaluated in accordance with the criteria found in Section 0400.

3. STATEMENT OF WORK REQUIRED. Below are a series of potential work efforts to allow the City to evaluate the existing services and provide recommendations that may improve operational efficiency, minimize waste, increase recycling rates, and enhance cost savings and revenues.

Assessment and Recommendation Phase

- The consultant shall review stakeholder feedback from previous community meetings and provide key requests for consideration by the City.
- Analyze current waste hauling data, including collection volumes, service frequency, and customer satisfaction metrics.
- Conduct market research to identify industry best practices, innovative technologies, and trends in waste

management services.

- Benchmark against similar municipalities or organizations to identify competitive service standards and pricing models.

The successful Consultant will review the current collection agreement(s) and assist in drafting a solicitation to clarify City expectations and provide exceptional service at the best price. The selected consultant shall:

Solicitation Development Phase

Assist the City in developing clear evaluation criteria and a scoring sheet for the City's use. The consultant will collaborate with the City to explain and organize this information within the solicitation. Assist the City in clearly defining the scope of services, performance standards, and evaluation criteria. At a minimum, the solicitation will include:

- Language on quality assurance,
- Detailed description of services to be provided,
- Performance measurements,
- Remedies for underperformance (liquidated damages),
- Reporting and data requirements,
- Best practices for recycling/waste diversion,
- Full-disclosure pricing forms to cover all services currently offered, and
- Other information as required to complete the necessary documents.

Technical Assistance During Bid Process Phase

The consultant will provide technical assistance throughout the process of issuance of the solicitation and receipt of submittals, including:

Assistance with the Facilitation of Pre-Proposal Meetings

The consultant will attend the pre-proposal conference(s) and assist City staff in responding to questions received at the meeting(s) and in writing.

Pricing Development

The consultant will assist in developing a scoring model to evaluate the costs of the specified services and compare them to the projected costs of the proposed services.

Proposal Evaluation Support

Initial Evaluation- The consultant will assist in reviewing proposals received and developing follow-up questions for each proposer (as applicable).

Pricing Technical Analysis and Summary

The consultant will provide a high-level pricing technical analysis summary for consideration by the City.

Contract Negotiations and Commencement

- The consultant will assist the City with contract negotiations and Agreement preparation.
- The consultant will support the City with the preparation and roll-out of new contracts, providing guidance and suggestions for making any transition in contractors or changes to program elements as smooth as possible.

Optional Tasks

- The consultant may be asked to review the City's ordinance, identify areas requiring updates based on the outcome of the study, and provide suggested ordinance language for consideration by the City.
- The consultant may be asked to attend Commission and or committee meetings to present and answer any technical questions.

4. ANTICIPATED RFQ TIMETABLE. The tentative schedule for this solicitation is as follows:

RFQ Issued	July 24, 2024
Pre-Proposal Meeting	August 8, 2024 at 10:00 am ET Join on your computer or mobile app Click here to join the meeting Or call in (audio only) +1 786-636-1480 United States, Miami Phone Conference ID: 916 525 649#
Deadline for Receipt of Questions	August 21, 2024, at 5:00 pm ET
Responses Due	September 4, 2024, at 3:00 pm ET Join on your computer or mobile app Click here to join the meeting Or call in (audio only) +1 786-636-1480 United States, Miami Phone Conference ID: 316 934 347#
Evaluation Committee Review	TBD
Tentative Commission Approval	TBD
Contract Negotiations	Following Commission Approval

5. PROCUREMENT CONTACT. Any questions or clarifications concerning this solicitation shall be submitted to the Procurement Contact noted below:

Procurement Contact:
William Garviso

Telephone:
305 673-7490

Email:
WilliamGarviso@miamibeachfl.gov

Additionally, the City Clerk is to be copied on all communications via email at RafaelGranado@miamibeachfl.gov or via facsimile: 786-394-4188.

The Proposal title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than ten (10) calendar days prior to the date proposals are due as scheduled in Section 0100-5. All responses to questions/clarifications will be sent to all prospective Bidders in the form of an addendum.

6. PRE-PROPOSAL MEETING OR SITE VISIT(S). A pre-proposal meeting or site visit(s) may be scheduled. Attendance for the pre-proposal meeting shall be via web conference and recommended as a source of information but is not mandatory. Bidders interested in participating in the Pre-Proposal Meeting must follow these steps:

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

+1 786-636-1480 United States, Miami

Phone Conference ID: 916 525 649#

Bidders who are participating should send an email to the contact person listed in this RFQ expressing their intent to

participate.

7. PRE-PROPOSAL INTERPRETATIONS. Oral information or responses to questions received by prospective Bidders are not binding on the City and will be without legal effect, including any information received at pre-submittal meeting or site visit(s). The City, by means of Addenda, will issue interpretations or written addenda clarifications that are considered necessary by the City in response to questions. Only questions answered by written addenda will be binding and may supersede terms noted in this solicitation. Addendum will be released through *Periscope S2G*. Any prospective bidder who has received this RFQ by any means other than through *Periscope S2G* must register immediately with *Periscope S2G* to ensure it receives any addendum issued to this RFQ. Failure to receive an addendum may result in disqualification of the Proposal. Written questions should be received no later than the date outlined in the **Anticipated RFQ Timetable** section.

8. CONE OF SILENCE. This RFQ is subject to, and all bidders are expected to be or become familiar with, the City's Cone of Silence Requirements, as codified in Section 2-486 of the City Code. Bidders shall be solely responsible for ensuring that all applicable provisions of the City's Cone of Silence are complied with and shall be subject to any and all sanctions, as prescribed therein, including rendering their response voidable, in the event of such non-compliance. Communications regarding this solicitation are to be submitted in writing to the Procurement Contact named herein with a copy to the City Clerk at rafaelgranado@miamibeachfl.gov

9. ADDITIONAL INFORMATION OR CLARIFICATION. After proposal submittal, the City reserves the right to require additional information from Bidders (or Bidder team members or sub-consultants) to determine qualifications (including, but not limited to, litigation history, regulatory action, or additional references) and financial capability (including, but not limited to, annual reviewed/audited financial statements with the auditors notes for each of their last two complete fiscal years).

10. BIDDER'S RESPONSIBILITY. Before submitting a response, each Bidder shall be solely responsible for making any and all investigations, evaluations, and examinations, as it deems necessary, to ascertain all conditions and requirements affecting the full performance of the contract. Ignorance of such conditions and requirements, and/or failure to make such evaluations, investigations, and examinations, will not relieve the Bidder from any obligation to comply with every detail and with all provisions and requirements of the contract and will not be accepted as a basis for any subsequent claim whatsoever for any monetary consideration on the part of the Bidder.

11. DETERMINATION OF AWARD. The City Manager may appoint an evaluation committee to assist in the evaluation of proposals received. The evaluation committee is advisory only to the city manager. The city manager may consider the information provided by the evaluation committee process and/or may utilize other information deemed relevant. The City Manager's recommendation need not be consistent with the information provided by the evaluation committee process and takes into consideration Miami Beach City Code Section 2-369, including the following considerations:

- (1) The ability, capacity, and skill of the Bidder to perform the contract,
- (2) Whether the Bidder can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience, and efficiency of the Bidder.
- (4) The quality of performance of previous contracts.
- (5) The previous and existing compliance by the Bidder with laws and ordinances relating to the contract.

The City Manager may recommend to the City Commission the Bidder(s) s/he deems to be in the best interest of the City or may recommend rejection of all proposals. The City Commission shall consider the City Manager's recommendation and may approve such recommendation. The City Commission may also, at its option, reject the City Manager's recommendation and select another Proposal or Proposals that it deems to be in the best interest of the City, or it may also reject all Proposals.

12. NEGOTIATIONS. Following selection, the City reserves the right to enter into further negotiations with the selected Bidder. Notwithstanding the preceding, the City is in no way obligated to enter into a contract with the selected Bidder in the event the parties are unable to negotiate a contract. It is also understood and acknowledged by Bidders that no property, contract, or legal rights of any kind shall be created at any time until and unless an Agreement has been agreed to, approved by the City, and executed by the parties.

13. E-VERIFY. As a contractor, you are obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Therefore, you shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

14. PERISCOPE S2G (FORMERLY BIDSINC). The Procurement Department utilizes Periscope S2G, a Supplier-to-Government electronic bidding (e-Bid) platform. If you would like to be notified of available competitive solicitations released by the City, you must register and complete your vendor qualifications through Periscope S2G, Supplier-to-Government www.bidsync.com/Miami-Beach. Registration is easy and will only take a few minutes. For detailed instructions on how to register, complete vendor qualifications, and submit electronic bids, visit <https://www.miamibeachfl.gov/city-hall/procurement/for-approval-how-to-become-a-vendor/>.

Should you have any questions regarding this system or registration, please visit the above link or contact Periscope S2G, Supplier-to-Government, at support@bidsync.com or 800.990.9339, option 1, option 1.

15. HOW TO MANAGE OR CREATE A VENDOR PROFILE ON VENDOR SELF SERVICE (VSS). In addition to registering with Periscope S2G, the City encourages vendors to register with our online Vendor Self-Service web page, allowing City vendors to easily update contacts, attachments (W-9), and commodity information. The Vendor Self-Service (VSS) webpage (<https://selfservice.miamibeachfl.gov/vss/Vendors/default.aspx>) will also provide you with purchase orders and payment information.

Should you have any questions and/or comments, do not hesitate to submit them to vendorsupport@miamibeachfl.gov.

16. SUPPLIER DIVERSITY. The City has established a registry of LGBT-owned businesses, as certified by the National LGBT Chamber of Commerce (NGLCC), and small and disadvantaged businesses, as certified by Miami-Dade County. See authorizing resolutions [here](#).

If your company is certified as an LGBT-owned business by NGLCC or as a small or disadvantaged business by Miami-Dade County, click on the link below to be added to the City's supplier registry (Vendor Self-Service) and bid system (Periscope S2G, Supplier-to-Government). These are two different systems, and it is important that you register for both.

Click to see acceptable certification and to register: <https://www.miamibeachfl.gov/city-hall/procurement/how-to-become-a-vendor/>.

SECTION 0200

GENERAL CONDITIONS

FORMAL SOLICITATIONS TERMS & CONDITIONS - GOODS AND SERVICES. By virtue of submitting a proposal in response to this solicitation, the Bidder agrees to be bound by and in compliance with the Terms and Conditions for Services (dated 10.27.2022), incorporated herein, which may be found at the following link:

<https://www.miamibeachfl.gov/city-hall/procurement/standard-terms-and-conditions/>

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SECTION 0300 PROPOSAL SUBMITTAL INSTRUCTIONS AND FORMAT

1. ELECTRONIC RESPONSES (ONLY). Proposals must be submitted electronically through Periscope S2G (formerly BidSync) on or before the date and time indicated. Hard copy proposals or proposals received through email or facsimile are not acceptable and will be rejected.

A bidder may submit a modified proposal to replace all or any portion of a previously submitted proposal until the deadline for proposal submittals. The City will only consider the latest version of the bid.

Electronic proposal submissions may require the uploading of attachments. All documents should be attached as separate files in accordance with the instructions included in Section 4 below. Attachments containing embedded documents or proprietary file extensions are prohibited. It is the Bidder's responsibility to ensure that its bid, including all attachments, is uploaded successfully.

Only proposal submittals received and time stamped by Periscope S2G (formerly BidSync) prior to the proposal submittal deadline shall be accepted as submitted in a timely manner. Late bids cannot be submitted and will not be accepted. Bidders are cautioned to allow sufficient time for the submittal of bids and uploading of attachments. Any technical issues must be submitted to Periscope S2G (formerly BidSync) by contacting (800) 990-9339 (toll-free) or S2G@periscopeholdings.com. The City cannot assist with technical issues regarding submittals and will in no way be responsible for delays caused by any technical or other issue.

It is the sole responsibility of each Bidder to ensure its Proposal is successfully submitted in BidSync prior to the deadline for proposal submittals.

2. NON-RESPONSIVENESS. Failure to submit the following requirements shall result in a determination of non-responsiveness. Non-responsive proposals will not be considered.

1. Bid Submittal Questionnaire (submitted electronically).
2. Failure to comply with the Minimum Eligibility Requirements (if applicable).

3. OMITTED OR ADDITIONAL INFORMATION. Failure to complete and submit the Bid Submittal Questionnaire (submitted electronically) with the bid and by the deadline for submittals shall render a proposal non-responsive. With the exception of the Bid Submittal Questionnaire (completed and submitted electronically), the City reserves the right to seek any omitted information/documentation or any additional information from the Bidder or other source(s), including but not limited to any firm or principal information, applicable licensure, resumes of relevant individuals, client information, financial information, or any information the City deems necessary to evaluate the capacity of the Bidder to perform in accordance with contract requirements. Failure to submit any omitted or additional information in accordance with the City's request shall result in the Proposal being deemed non-responsive.

4. ELECTRONIC PROPOSAL FORMAT. In order to maintain comparability, facilitate the review process, and assist the Evaluation Committee in review of proposals, it is strongly recommended that proposals be organized and tabbed in accordance with the tabs and sections as specified below. The electronic submittal should be tabbed as enumerated below and contain a table of contents with page references. The electronic Proposal shall be submitted through the "Line Items" attachment tab in Periscope S2G.

TAB 1	Cover Letter, and Table of Contents
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1.1 Cover Letter and Table of Contents. The table of contents should indicate the tabs, sections with tabs, and page numbers to facilitate the evaluation committee's review. The cover letter must be signed by a principal or agent able to bind the firm.

TAB 2	Experience and Qualifications
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2.1 Organizational Chart: An organizational chart depicting the structure and lines of authority and communication for all firms, principals, and personnel involved in the project. Include information that describes the intended structure regarding, review and assessment of current operational functions, research of other coastal cities that may operate under a single hauler or hybrid model, including analysis, potential financial impacts for city-added responsibilities, and assistance with the solicitation process, pursuant to the terms of the RFQ.

2.2 Relevant Experience of Prime Bidder: Summarize projects where the Bidder and/or its principals have provided services similar to those described herein. For each project, provide the following:

- a. Project name and scope of services provided;
- b. The names of individuals who worked on the referenced project are included in Section 2.1 above.
- c. client;
- d. client project manager and contact information;
- e. costs of the services provided, and
- f. term of the engagement.

2.3 Relevant Experience of Sub-consultant(s)/Sub-contractor(s): Summarize projects where the Sub-consultant(s)/Sub-contractor(s) and/or its principals have provided services similar to those described herein. For each project, provide the following:

- g. Project name and scope of services provided;
- h. The names of individuals who worked on the referenced project are included in Section 2.1 above.
- i. client;
- j. client project manager and contact information;
- k. costs of the services provided, and
- term of the engagement.

TAB 3	Approach and Methodology
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Submit detailed information on the approach and methodology that the Bidder and its team have utilized on previous engagements to accomplish a similar scope of work, including detailed information, as applicable, which addresses, but need not be limited to:

- assessment and recommendation, including conducting market research to identify industry best practices, innovative technologies, and trends in waste management services, including research of other coastal cities that may operate under single hauler or hybrid systems.
- identifying competitive service standards and pricing models against similar municipalities or organizations
- analyzing current waste hauling data, including collection volumes, service frequency, and customer satisfaction metrics.
- solicitation development
- proposal evaluation support
- negotiations and contract roll-out support

SECTION 0400

PROPOSAL EVALUATION

1. EVALUATION COMMITTEE. An Evaluation Committee, appointed by the City Manager, may meet to evaluate each Proposal in accordance with the qualitative criteria set forth below. In doing so, the Evaluation Committee may review and score all proposals received, with or without requiring presentations. It is important to note that the Evaluation Committee is advisory only and does not make an award recommendation to the City Manager or the City Commission. The City Manager will utilize the results to take one of the following actions:

- a. In the event that only one responsive Proposal is received, the City Manager, after determination that the sole responsive Proposal materially meets the requirements of the RFQ, may, without an evaluation committee, recommend to the City Commission that the Administration enter into negotiations or
- b. The City Manager may recommend that the City Commission authorize negotiations or award a contract to one or more firms in accordance with Section 0100, Sub-section 12, or
- c. The City Manager may Recommend that the City Commission short-list one or more firms for further consideration by the Evaluation Committee or
- d. The City Manager may recommend to the City Commission that all firms, if more than one (1) responsive submittal is received, be rejected.

2. PRESENTATIONS BY SHORT-LISTED FIRMS. If a short-listing of firms responding to this RFQ is approved, the short-listed firms may be required to make presentations to and be interviewed by the Evaluation Committee. In further considering the short-listed firms, the Evaluation Committee will utilize the criteria set forth in Sub-section 4 below.

3. TECHNICAL ADVISORS. The City, at its discretion, may utilize technical or other advisers to assist the evaluation committee or the City Manager in evaluating proposals.

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4. EVALUATION CRITERIA. Responsive, responsible proposals will be evaluated in accordance with the following criteria:

Qualitative Criteria (Points Assigned by Evaluation Committee)	Maximum Points
Experience & Qualifications (Tab 1)	60
Approach & Methodology (Tab 2)	40
TOTAL AVAILABLE POINTS for Qualitative Criteria	100
Quantitative Criteria (Points Assigned by Procurement Department)	Maximum Points
Veteran's Preference Points	5
TOTAL AVAILABLE POINTS for Qualitative and Quantitative	105

5. QUALITATIVE CRITERIA. The Evaluation Committee shall review responsive, responsible proposals and assign points for the qualitative factors only. The Evaluation Committee shall not consider quantitative factors (e.g., veteran's preference) in its review of proposals. The Evaluation Committee shall act solely as an advisory to the City Manager. The results of the Evaluation Committee process do not constitute an award recommendation. The City Manager may utilize, but is not bound by, the results of the Evaluation Committee process, as well as consider any feedback or information provided by staff, consultants, or any other third party in developing an award recommendation in accordance with Section 0100, Sub-section 10. In its review of proposals received, the Evaluation Committee may review and score all proposals, with or without conducting interview sessions, in accordance with the evaluation criteria.

6. Quantitative Criteria. Following the results of the evaluation of the qualitative criteria by the Evaluation Committee, the Bidders may receive additional points, which will be added by City staff. Veterans' Preference points will be assigned in accordance with Section 2-374 of the City Code.

7. DETERMINATION OF FINAL RANKING. The sum of the evaluation criteria points will be converted to rankings in accordance with the example below:

		Bidder A	Bidder B	Bidder C
Committee Member 1	Qualitative Points	82	74	80
	Quantitative Points	10	5	0
	Total	92	79	80
	Rank	1	3	2
Committee Member 2	Qualitative Points	82	85	72
	Quantitative Points	10	5	0
	Total	92	90	72
	Rank	1	2	3
Committee Member 2	Qualitative Points	90	74	66
	Quantitative Points	10	5	0
	Total	100	79	66
	Rank	1	2	3
Low Aggregate Score		3	7	8
Final Ranking*		1	2	3

It is important to note that the results of the proposal evaluation process in accordance with Section 0400 do not represent an award recommendation. The City Manager will utilize the results of the proposal evaluation process and any other information he deems appropriate to develop an award recommendation to the City Commission, which may differ from the results of the proposal evaluation process and final rankings.

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APPENDIX A

MIAMI BEACH

Special Conditions

2024-366-WG
Solid Waste Consulting Services

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

1. **TERM OF CONTRACT.** This contract shall commence upon the date of a fully executed Agreement and shall remain in effect until such time as the services acquired in conjunction with this Request for Qualifications have been completed and accepted by the City's authorized representative.
2. **NEGOTIATIONS.** Upon approval of selection by the City Commission, negotiations between the City and the selected Consultant will take place to arrive at a mutually acceptable Agreement, including the final scope of services, deliverables, and cost of services.
3. **COMPETITIVE SPECIFICATIONS.** It is the goal of the City to maximize competition for the project among suppliers & contractors. Consultant shall endeavor to prepare all documents, plans & specifications that are in accordance with this goal. Under no condition shall the Consultant include means & methods or product specifications that are considered "sole source" or restricted without prior written approval of the City.
4. **CHANGE OF PROJECT MANAGER.** A change in the Consultant's project manager (as well as any replacement) shall be subject to the prior written approval of the City Manager or his designee (who, in this case, shall be an Assistant City Manager). Replacement (including reassignment) of an approved project manager or public information officer shall not be made without submitting a resume for the replacement staff person and receiving prior written approval from the City Manager or his designee (i.e., the City project manager).
5. **SUB-CONSULTANTS.** The Consultant shall not retain, add, or replace any sub-consultant without the prior written approval of the City Manager in response to a written request from the Consultant stating the reasons for any proposed substitution. Any approval of a sub-consultant by the City Manager shall not in any way shift the responsibility for the quality and acceptability by the City of the services performed by the sub-consultant from the Consultant to the City. The quality of services and acceptability to the City of the services performed by sub-consultants shall be the sole responsibility of the Consultant.

APPENDIX B

MIAMI BEACH

Sample Contract

2024-366-WG
Solid Waste Consulting Services

**BY VIRTUE OF SUBMITTING A PROPOSAL, THE FIRM HEREBY TAKES NO EXCEPTIONS
TO THE TERM AND CONDITIONS NOTED IN THIS SAMPLE CONTRACT**

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH
AND
[FILL IN CONSULTANT NAME]
FOR
[XXXXXXXXXXXXXXXXXXXX], PURSUANT TO
[FILL IN RFP, RFQ, OR ITB#]**

This Professional Services Agreement ("Agreement") is entered into this _____ ("Effective Date"), between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (the "City"), and **[FILL IN CONSULTANT NAME]**, a **[FILL IN TYPE OF ENTITY/I.E. CORPORATION, LLC, ETC.]**, whose address is **XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX** ("Consultant").

**SECTION 1
DEFINITIONS**

Agreement: This Agreement between the City and Consultant, including any exhibits and amendments thereto.

City Manager: The chief administrative officer of the City.

City Manager's Designee: The City staff member who is designated by the City Manager to administer this Agreement on behalf of the City. The City Manager's designee shall be the _____ Department Director.

Consultant: For the purposes of this Agreement, Consultant shall be deemed to be an independent contractor, and not an agent or employee of the City.

Services: All services, work and actions by the Consultant performed or undertaken pursuant to the Agreement.

Fee: Amount paid to the Consultant as compensation for Services.

Proposal Documents: Proposal Documents shall mean City of Miami Beach **[FILL IN RFP, RFQ, OR ITB]** No. **XXXXXXXXXXXXXXXXXXXX** for **XXXXXXXXXXXXXXXXXXXXXXXXXXXX**, together with all amendments thereto, issued by the City in contemplation of this Agreement **[FILL IN CORRECT ABBREVIATION RFP, RFQ, OR ITB]**, and the Consultant's proposal in response thereto ("Proposal"), all of which are hereby incorporated and made a part hereof; provided, however, that in the event of an express conflict between the

Proposal Documents and this Agreement, the following order of precedent shall prevail: this Agreement; the **[FILL IN RFP, RFQ, or ITB]**; and the Proposal.

Risk Manager: The Risk Manager of the City, with offices at 1700 Convention Center Drive, Third Floor, Miami Beach, Florida 33139; telephone number (305) 673-7000, Ext. 26724; and fax number (305) 673-7529.

SECTION 2

SCOPE OF SERVICES

2.1 In consideration of the Fee to be paid to Consultant by the City, Consultant shall provide the work and services described in Exhibit "A" hereto (the "Services").

[NOTE: EXHIBIT "A" MUST INCLUDE DETAILED DESCRIPTION OF SERVICES]

Although Consultant may be provided with a schedule of the available hours to provide its Services, the City shall not control nor have the right to control the hours of the Services performed by the Consultant; where the Services are performed (although the City will provide Consultant with the appropriate location to perform the Services); when the Services are performed, including how many days a week the Services are performed; how the Services are performed, or any other aspect of the actual manner and means of accomplishing the Services provided. Notwithstanding the foregoing, all Services provided by the Consultant shall be performed in accordance with the terms and conditions set forth in Exhibit "A" and to the reasonable satisfaction of the City Manager. If there are any questions regarding the Services to be performed, Consultant should contact the following person:

2.2 Consultant's Services, and any deliverables incident thereto, shall be completed in accordance with the timeline and/or schedule in Exhibit **[XXX]** hereto.

[NOTE: TIMELINE FOR DELIVERABLES CAN ALSO BE INCLUDED IN EXHIBIT "A" OR IN SEPARATE EXHIBIT]

SECTION 3

TERM

The term of this Agreement ("Term") shall commence upon execution of this Agreement by all parties hereto (the Effective Date set forth on p. 1 hereof), and shall have an initial term of **[XXXXXXXXXXXX]**, with **[XXXXXXXXXX]** renewal options, to be exercised at the City Manager's sole option and discretion, by providing Consultant with written notice of same no less than thirty (30) days prior to the expiration of the initial term.

Notwithstanding the Term provided hereir, Consultant shall adhere to any specific timelines, schedules, dates, and/or performance milestones for completion and delivery of the Services, as same is/are set forth in the timeline and/or schedule referenced in Exhibit [XXX] hereto.

SECTION 4

FEE

4.1 In consideration of the Services to be provided, Consultant shall be compensated on a fixed fee basis, in the amount of \$XXXXXXXX, for a total annual amount not to exceed \$XXXXXXXX.

4.2 [NOTE: INCLUDE AMOUNT FOR REIMBURSABLES, IF ANY].

4.3 [NOTE: INCLUDE HOW FEE IS TO BE PAID – I.E. “X” PERCENTAGE UP FRONT; “X” UPON DELIVERY; MONTHLY; LUMP SUM; ETC.].

4.4 INVOICING

Upon receipt of an acceptable and approved invoice, payment(s) shall be made within forty-five (45) days for that portion (or those portions) of the Services satisfactorily rendered (and referenced in the particular invoice).

Invoices shall include a detailed description of the Services (or portions thereof) provided, and shall be submitted to the City at the following address:

Accounts Payable: Payables@miamibeachfl.gov

SECTION 5 **TERMINATION**

5.1 TERMINATION FOR CAUSE

If the Consultant shall fail to fulfill in a timely manner, or otherwise violates, any of the covenants, agreements, or stipulations material to this Agreement, the City, through its City Manager, shall thereupon have the right to terminate this Agreement for cause. Prior to exercising its option to terminate for cause, the City shall notify the Consultant of its violation of the particular term(s) of this Agreement, and shall grant Consultant ten (10) days to cure such default. If such default remains uncured after ten (10) days, the City may terminate this Agreement without further notice to Consultant. Upon termination, the City shall be fully discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by any breach of the Agreement by the Consultant. The City, at its sole option and discretion, shall be entitled to bring any and all legal/equitable

actions that it deems to be in its best interest in order to enforce the City's rights and remedies against Consultant. The City shall be entitled to recover all costs of such actions, including reasonable attorneys' fees.

5.2 TERMINATION FOR CONVENIENCE OF THE CITY

THE CITY MAY ALSO, THROUGH ITS CITY MANAGER, AND FOR ITS CONVENIENCE AND WITHOUT CAUSE, TERMINATE THE AGREEMENT AT ANY TIME DURING THE TERM BY GIVING WRITTEN NOTICE TO CONSULTANT OF SUCH TERMINATION; WHICH SHALL BECOME EFFECTIVE WITHIN THIRTY (30) DAYS FOLLOWING RECEIPT BY THE CONSULTANT OF SUCH NOTICE. ADDITIONALLY, IN THE EVENT OF A PUBLIC HEALTH, WELFARE OR SAFETY CONCERN, AS DETERMINED BY THE CITY MANAGER, IN THE CITY MANAGER'S SOLE DISCRETION, THE CITY MANAGER, PURSUANT TO A VERBAL OR WRITTEN NOTIFICATION TO CONSULTANT, MAY IMMEDIATELY SUSPEND THE SERVICES UNDER THIS AGREEMENT FOR A TIME CERTAIN, OR IN THE ALTERNATIVE, TERMINATE THIS AGREEMENT ON A GIVEN DATE. IF THE AGREEMENT IS TERMINATED FOR CONVENIENCE BY THE CITY, CONSULTANT SHALL BE PAID FOR ANY SERVICES SATISFACTORILY PERFORMED UP TO THE DATE OF TERMINATION; FOLLOWING WHICH THE CITY SHALL BE DISCHARGED FROM ANY AND ALL LIABILITIES, DUTIES, AND TERMS ARISING OUT OF, OR BY VIRTUE OF, THIS AGREEMENT.

5.3 TERMINATION FOR INSOLVENCY

The City also reserves the right to terminate the Agreement in the event the Consultant is placed either in voluntary or involuntary bankruptcy or makes an assignment for the benefit of creditors. In such event, the right and obligations for the parties shall be the same as provided for in Section 5.2.

SECTION 6 INDEMNIFICATION AND INSURANCE REQUIREMENTS

6.1 INDEMNIFICATION

Consultant agrees to indemnify, defend and hold harmless the City of Miami Beach and its officers, employees, agents, and contractors, from and against any and all actions (whether at law or in equity), claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees and costs, for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Consultant, its officers, employees, agents, contractors, or any other person or entity acting under Consultant's control or supervision, in connection with, related to, or as a result of the Consultant's performance of the Services pursuant to this Agreement. To that extent, the Consultant shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals. The Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the

Consultant shall in no way limit the Consultant's responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The parties agree that one percent (1%) of the total compensation to Consultant for performance of the Services under this Agreement is the specific consideration from the City to the Consultant for the Consultant's indemnity agreement. The provisions of this Section 6.1 and of this indemnification shall survive termination or expiration of this Agreement.

6.2 INSURANCE REQUIREMENTS [NOTE: INSURANCE TYPES AND LIMITS BELOW SHOULD ALWAYS BE SAME AS WHAT WAS SPECIFIED IN BID DOCUMENTS]

6.3 The Consultant shall maintain the below required insurance in effect prior to awarding the agreement and for the duration of the agreement. The maintenance of proper insurance coverage is a material element of the agreement and failure to maintain or renew coverage may be treated as a material breach of the contract, which could result in withholding of payments or termination of the Agreement.

A. General Liability, in the amount of \$1,000,000 combined single limit, for bodily injury and property damage. The City of Miami Beach must be endorsed as an Additional Insured as their interest may appear.

B. Consultant Professional Liability, in the amount of \$1,000,000; and

C. Workers Compensation & Employers Liability, as required pursuant to Chapter 440, Florida Statutes. A waiver of subrogation endorsement must be provided.

6.4 **Additional Insured** – City of Miami Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) arising out of work or operations performed on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed in the form of an endorsement to the Consultant's insurance.

6.5 **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

6.6 **Waiver of Subrogation** – Consultant agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

6.7 **Acceptability of Insurers** – Insurance must be placed with insurers with a current A.M. Best rating of A:VII or higher. If not rated, exceptions may be made for members of the Florida Insurance Funds (i.e. FWCIGA, FAJUA). Carriers may also be considered if they are licensed and authorized to do insurance business in the State of Florida.

6.8 Verification of Coverage – Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

CERTIFICATE HOLDER ON ALL COI MUST READ:

CITY OF MIAMI BEACH
c/o EXIGIS Insurance Compliance Services
P.O. Box 947
Murrieta, CA 92564

Kindly submit all certificates of insurance, endorsements, exemption letters to our servicing agent, EXIGIS, at:

Certificates-miamibeach@riskworks.com

6.9 Special Risks or Circumstances – The City of Miami Beach reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Compliance with the foregoing requirements shall not relieve the vendor of his liability and obligation under this section or under any other section of this agreement.

SECTION 7
LITIGATION JURISDICTION/VENUE/JURY TRIAL WAIVER

This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. By entering into this Agreement, Consultant and the City expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement.

SECTION 8
LIMITATION OF CITY'S LIABILITY

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action, for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$10,000. Consultant hereby expresses its willingness to enter into this Agreement with Consultant's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$10,000.

Accordingly, and notwithstanding any other term or condition of this Agreement, Consultant hereby agrees that the City shall not be liable to the Consultant for damages in an amount in excess of \$10,000 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement.

Nothing contained in this section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability, as set forth in Section 768.28, Florida Statutes.

SECTION 9

DUTY OF CARE/COMPLIANCE WITH APPLICABLE LAWS/PATENT RIGHTS; COPYRIGHT; AND CONFIDENTIAL FINDINGS

9.1 DUTY OF CARE

With respect to the performance of the Services contemplated herein, Consultant shall exercise that degree of skill, care, efficiency and diligence normally exercised by reasonable persons and/or recognized professionals with respect to the performance of comparable work and/or services.

9.2 COMPLIANCE WITH APPLICABLE LAWS

In its performance of the Services, Consultant shall comply with all applicable laws, ordinances, and regulations of the City, Miami-Dade County, the State of Florida, and the federal government, as applicable.

9.3 PATENT RIGHTS; COPYRIGHT; CONFIDENTIAL FINDINGS

Any work product arising out of this Agreement, as well as all information specifications, processes, data and findings, are intended to be the property of the City and shall not otherwise be made public and/or disseminated by Consultant, without the prior written consent of the City Manager, excepting any information, records etc. which are required to be disclosed pursuant to Court Order and/or Florida Public Records Law.

All reports, documents, articles, devices, and/or work produced in whole or in part under this Agreement are intended to be the sole and exclusive property of the City, and shall not be subject to any application for copyright or patent by or on behalf of the Consultant or its employees or sub-consultants, without the prior written consent of the City Manager.

SECTION 10

GENERAL PROVISIONS

10.1 AUDIT AND INSPECTIONS

Upon reasonable verbal or written notice to Consultant, and at any time during normal business hours (i.e. 9AM – 5PM, Monday through Fridays, excluding nationally recognized holidays), and as often as the City Manager may, in his/her reasonable discretion and judgment, deem necessary, there shall be made available to the City Manager, and/or such representatives as the City Manager may deem to act on the City's behalf, to audit, examine, and/ or inspect, any and all other documents and/or records relating to all matters covered by this Agreement. Consultant shall maintain any and all such records at its place of business at the address set forth in the "Notices" section of this Agreement.

10.2 INSPECTOR GENERAL AUDIT RIGHTS

- (A) Pursuant to Section 2-256 of the Code of the City of Miami Beach, the City has established the Office of the Inspector General which may, on a random basis, perform reviews, audits, inspections and investigations on all City contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the City.
- (B) The Office of the Inspector General is authorized to investigate City affairs and empowered to review past, present and proposed City programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor City projects and programs. Monitoring of an existing City project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Consultant, its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption. Pursuant to Section 2-378 of the City Code, the City is allocating a percentage of its overall annual contract expenditures to fund the activities and operations of the Office of Inspector General.
- (C) Upon ten (10) days written notice to the Consultant, the Consultant shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Consultant its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.

- (D) The Inspector General shall have the right to inspect and copy all documents and records in the Consultant's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.
- (E) The Consultant shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this Agreement, for examination, audit, or reproduction, until three (3) years after final payment under this Agreement or for any longer period required by statute or by other clauses of this Agreement. In addition:
- i. If this Agreement is completely or partially terminated, the Consultant shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
 - ii. The Consultant shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.
- (F) The provisions in this section shall apply to the Consultant, its officers, agents, employees, subcontractors and suppliers. The Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Consultant in connection with the performance of this Agreement.
- (G) Nothing in this section shall impair any independent right to the City to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the City by the Consultant or third parties.

10.3 ASSIGNMENT, TRANSFER OR SUBCONSULTING

Consultant shall not subcontract, assign, or transfer all or any portion of any work and/or service under this Agreement without the prior written consent of the City Manager, which consent, if given at all, shall be in the Manager's sole judgment and discretion. Neither this Agreement, nor any term or provision hereof, or right hereunder, shall be assignable unless as approved pursuant to this section, and any attempt to make such assignment (unless approved) shall be void.

10.4 PUBLIC ENTITY CRIMES

Prior to commencement of the Services, the Consultant shall file a State of Florida Form PUR 7068, Sworn Statement under Section 287.133(3)(a) Florida Statute on Public Entity Crimes with the City's Procurement Division.

10.5 NO DISCRIMINATION

In connection with the performance of the Services, the Consultant shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.

Additionally, Consultant shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

10.6 CONFLICT OF INTEREST

Consultant herein agrees to adhere to and be governed by all applicable Miami-Dade County Conflict of Interest Ordinances and Ethics provisions, as set forth in the Miami-Dade County Code, as may be amended from time to time; and by the City of Miami Beach Charter and Code, as may be amended from time to time; both of which are incorporated by reference as if fully set forth herein.

Consultant covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of the Services. Consultant further covenants that in the performance of this Agreement, Consultant shall not employ any person having any such interest. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising therefrom.

10.7 CONSULTANT'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW

- (A) Consultant shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.
- (B) The term "public records" shall have the meaning set forth in Section 119.011(12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.
- (C) Pursuant to Section 119.0701 of the Florida Statutes, if the Consultant meets the definition of "Contractor" as defined in Section 119.0701(1)(a), the Consultant shall:
 - (1) Keep and maintain public records required by the City to perform the service;

- (2) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Agreement if the Consultant does not transfer the records to the City;
- (4) Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

(D) REQUEST FOR RECORDS; NONCOMPLIANCE.

- (1) A request to inspect or copy public records relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Consultant of the request, and the Consultant must provide the records to the City or allow the records to be inspected or copied within a reasonable time.
- (2) Consultant's failure to comply with the City's request for records shall constitute a breach of this Agreement, and the City, at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/or (3) avail itself of any available remedies at law or in equity.
- (3) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. [119.10](#).

(E) CIVIL ACTION.

- (1) If a civil action is filed against a Consultant to compel production of public records relating to the City's contract for services, the court shall assess and award against the Consultant the reasonable costs of enforcement, including reasonable attorneys' fees, if:
 - a. The court determines that the Consultant unlawfully refused to comply with the public records request within a reasonable time; and
 - b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Consultant has not complied with the request, to the City and to the Consultant.
- (2) A notice complies with subparagraph (1)(b) if it is sent to the City's

custodian of public records and to the Consultant at the Consultant's address listed on its contract with the City or to the Consultant's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

- (3) A Consultant who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

- (F) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY OF MIAMI BEACH
ATTENTION: RAFAEL E. GRANADO, CITY CLERK
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139
E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV
PHONE: 305-673-7411**

10.8 FORCE MAJEURE

- (A) A "Force Majeure" event is an event that (i) in fact causes a delay in the performance of the Consultant or the City's obligations under the Agreement, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prepared for by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, inclement weather, or failure to secure any of the required permits pursuant to the Agreement.
- (B) If the City or Consultant's performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course

of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.

- (C) No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Agreement due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.
- (D) Obligations pursuant to the Agreement that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.
- (E) Notwithstanding any other provision to the contrary herein, in the event of a Force Majeure occurrence, the City may, at the sole discretion of the City Manager, suspend the City's payment obligations under the Agreement, and may take such action without regard to the notice requirements herein. Additionally, in the event that an event of Force Majeure delays a party's performance under the Agreement for a time period greater than thirty (30) days, the City may, at the sole discretion of the City Manager, terminate the Agreement on a given date, by giving written notice to Consultant of such termination. If the Agreement is terminated pursuant to this section, Consultant shall be paid for any Services satisfactorily performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement. In no event will any condition of Force Majeure extend this Agreement beyond its stated term.

10.9 E-VERIFY

- (A) Consultant shall comply with Section 448.095, Florida Statutes, "Employment Eligibility" ("E-Verify Statute"), as may be amended from time to time. Pursuant to the E-Verify Statute, commencing on January 1, 2021, Consultant shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees during the Term of the Agreement. Additionally, Consultant shall expressly require any subconsultant performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment

eligibility of all new employees hired by the subconsultant during the contract Term. If Consultant enters into a contract with an approved subconsultant, the subconsultant must provide the Consultant with an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of such affidavit for the duration of the Agreement or such other extended period as may be required under this Agreement.

(B) TERMINATION RIGHTS.

- (1) If the City has a good faith belief that Consultant has knowingly violated Section 448.09(1), Florida Statutes, the City shall terminate this Agreement with Consultant for cause, and the City shall thereafter have or owe no further obligation or liability to Consultant.
- (2) If the City has a good faith belief that a subconsultant has knowingly violated the foregoing Subsection 10.9(A), but the Consultant otherwise complied with such subsection, the City will promptly notify the Consultant and order the Consultant to immediately terminate the Agreement with the subconsultant. Consultant's failure to terminate a subconsultant shall be an event of default under this Agreement, entitling City to terminate the Consultant's contract for cause.
- (3) A contract terminated under the foregoing Subsection (B)(1) or (B)(2) is not in breach of contract and may not be considered as such.
- (4) The City or Consultant or a subconsultant may file an action with the Circuit or County Court to challenge a termination under the foregoing Subsection (B)(1) or (B)(2) no later than 20 calendar days after the date on which the contract was terminated.
- (5) If the City terminates the Agreement with Consultant under the foregoing Subsection (B)(1), Consultant may not be awarded a public contract for at least 1 year after the date of termination of this Agreement.
- (6) Consultant is liable for any additional costs incurred by the City as a result of the termination of this Agreement under this Section 10.9.

SECTION 11
NOTICES

Until changed by notice, in writing, all such notices and communications shall be addressed as follows:

TO CONSULTANT: **[FILL IN]**

TO CITY: **[FILL IN]**

All notices mailed electronically to either party shall be deemed to be sufficiently transmitted.

SECTION 12
MISCELLANEOUS PROVISIONS

12.1 CHANGES AND ADDITIONS

This Agreement cannot be modified or amended without the express written consent of the parties. No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12.2 SEVERABILITY

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.3 WAIVER OF BREACH

A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A party's waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

12.4 JOINT PREPARATION

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12.5 ENTIRETY OF AGREEMENT

The City and Consultant agree that this is the entire agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

FOR CITY:

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By: _____
Rafael E. Granado, City Clerk

Alina T. Hudak, City Manager

Date: _____

FOR CONSULTANT:

By: _____

Print Name and Title

Date: _____

EXHIBIT A SCOPE OF SERVICES

APPENDIX C

MIAMI BEACH

INSURANCE REQUIREMENTS

2024-366-WG
Solid Waste Consulting Services

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

INSURANCE REQUIREMENTS

The vendor shall maintain the below-required insurance in effect prior to awarding the contract and for the duration of the contract. Maintenance of proper insurance coverage is a material element of the contract and failure to maintain or renew coverage may be treated as a material breach of the contract, which could result in withholding of payments or termination of the contract.

- A. Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440, and Employer Liability Insurance for bodily injury or disease. Should the Vendor be exempt from this Statute, the Vendor and each employee shall hold the City harmless from any injury incurred during the performance of the Contract. The exempt Vendor shall also submit (i) a written statement detailing the number of employees and that they are not required to carry Workers' Compensation insurance and do not anticipate hiring any additional employees during the term of this contract or (ii) a copy of a Certificate of Exemption.
- B. Commercial General Liability Insurance on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- C. Automobile Liability Insurance covering any automobile, if the vendor has no owned automobiles, then coverage for hired and non-owned automobiles, with a limit of no less than \$1,000,000 combined per accident for bodily injury and property damage.
- D. Umbrella Liability Insurance in an amount no less than \$1,000,000 per occurrence. The umbrella coverage must be as broad as the primary General Liability coverage.

Additional Insured - The City of Miami Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) arising out of work or operations performed on behalf of the Vendor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed in the form of an endorsement to the Vendor's insurance.

Notice of Cancellation - Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

Waiver of Subrogation – The Vendor agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers – Insurance must be placed with insurers with a current A.M. Best rating of A: VII or higher. If not rated, exceptions may be made for members of the Florida Insurance Funds (i.e. FWCIGA, FAJUA). Carriers may also be considered if they are licensed and authorized to do insurance business in the State of Florida.

Verification of Coverage – The vendor shall furnish the City with original certificates and

amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Vendor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

CERTIFICATE HOLDER MUST READ:

CITY OF MIAMI BEACH
c/o EXIGIS Insurance Compliance Services
P.O. Box 4668 – ECM #35050
New York, NY 10163-4668

Kindly submit all certificates of insurance, endorsements, exemption letters to our servicing agent, EXIGIS, at: Certificates-miamibeach@riskworks.com

Special Risks or Circumstances - The City of Miami Beach reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Compliance with the foregoing requirements shall not relieve the vendor of his liability and obligation under this section or under any other section of this agreement.

APPENDIX D

MIAMI BEACH

Resolution 2024-32967

2024-366-WG
Solid Waste Consulting Services

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

RESOLUTION NO. 2024-32967

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DIRECTING THE ADMINISTRATION TO TERMINATE REQUEST FOR QUALIFICATIONS (RFQ) 2023-506-WG FOR NON-EXCLUSIVE FRANCHISE WASTE HAULERS TO PROVIDE MULTI-FAMILY AND COMMERCIAL WASTE COLLECTION AND DISPOSAL AND TO PREPARE A REQUEST FOR PROPOSALS (RFP) FOR A "SINGLE HAULER" FOR SUCH SERVICES, TO AWARD AN EXCLUSIVE FRANCHISE TO THE QUALIFIED PROPOSER HAVING THE MOST COMPETITIVE AND COMPREHENSIVE PROPOSAL, INCLUDING WITH RESPECT TO CUSTOMER PRICING, SUCH RFP TO BE REVIEWED AND APPROVED BY THE MAYOR AND CITY COMMISSION PRIOR TO ISSUANCE; AND, FURTHER, APPROVING THE EXTENSION, ON A MONTH-TO-MONTH BASIS, OF THE CONTRACT TERM FOR THE FOLLOWING AGREEMENTS UNTIL SUCH TIME AS THE NEW FRANCHISE AGREEMENT TO BE AWARDED PURSUANT TO THE RFP BECOMES EFFECTIVE: (1) THE NON-EXCLUSIVE FRANCHISE WASTE CONTRACTOR AGREEMENTS BETWEEN THE CITY AND (A) WASTE MANAGEMENT INC. OF FLORIDA AND (B) WASTE CONNECTIONS OF FLORIDA, INC. (COLLECTIVELY, THE "FRANCHISE WASTE CONTRACTORS") AND (2) THE SERVICE AGREEMENT AMONG THE CITY AND THE FRANCHISE WASTE CONTRACTORS FOR ADDITIONAL SOLID WASTE COLLECTION SERVICES AND COLLECTION OF RECYCLABLE MATERIALS AT CITY OWNED PROPERTIES, PARKS, RIGHTS OF WAY, AND OTHER PUBLIC FACILITIES AND PROPERTIES; AND FURTHER, APPROVING THE CITY MANAGER'S EXECUTION OF AMENDMENTS AS OF OCTOBER 1, 2023 TO THE FRANCHISE AGREEMENTS AND SERVICE AGREEMENT MEMORIALIZING THE APPROVED TERM EXTENSION.

WHEREAS, on October 16, 2019, the Mayor and City Commission adopted Resolution No. 2019-31056, extending the City's Non-Exclusive Franchise Waste Contractor Agreements with Waste Management Inc. of Florida and Waste Connections of Florida, Inc. for the provision of multi-family and commercial waste collection and disposal services in the City, as well as a new Service Agreement with each of the non-exclusive franchisees for municipal waste and recycling services, for a period of three (3) years, commencing as of October 1, 2019, and expiring on September 30, 2022; and

WHEREAS, the Public Works Department engaged MidAtlantic Solid Waste Consultants (MSW) to assist staff with evaluating the current agreement structure and to provide recommendations for an open versus closed, exclusive versus non-exclusive waste contractor paradigm; and

WHEREAS, in addition to surveying commercial collection systems in ten (10) South Florida municipalities, MSW sought to receive input from businesses and, although only a limited number of businesses responded, the issues that were important to the respondents were fairly consistent across the board and included:

- Improving quality of service, including collection consistency
- Improving hauler accountability
- Adding clarity to contract pricing, including special charges

- Decreasing traffic and the number of waste collection vehicles on the street
- Increasing uniformity (i.e., more standard dumpsters and carts)
- Receiving City support for customer service, enforcement and contract disputes

WHEREAS, at the April 29, 2022, Finance and Economic Resiliency Committee (FERC) meeting, the City Administration presented MSW's findings, including and, among them, MSW recommended that the City transition to an exclusive franchise system for multi-family residential and commercial waste collection and disposal services and. In support of its recommendation, offered the following benefits the City could expect to derive by implementing a single-hauler system (MSW's presentation at the April 29, 2022 FERC meeting is attached hereto as **Exhibit A**);

- Procurement process allows for competitive bidding
- Prices should decrease for most businesses
- Improved service level and pricing transparency
- Improved operational efficiencies and economies of scale
- Streamlined contract management and oversight
- Improved hauler accountability
- Less truck traffic on streets
- Fewer greenhouse gas emissions

WHEREAS, MSW also pointed out the arguments against implementing a single-hauler system, which included, limited customer choice, some customers may experience rate increases and the potential for the perception of reduced market competitiveness; and

WHEREAS, the FERC directed MSW to expand its analysis to include additional municipalities and to return to a future FERC meeting with its findings; and

WHEREAS, MSW thereafter studied 139 municipalities in Miami-Dade County, Broward County, Palm Beach County, Pinellas County, Lee County, Collier County and Monroe County; and

WHEREAS, MSW returned to the FERC meeting on May 27, 2022 and reported that 63% of the municipalities included in their review had an exclusive franchise system in place, whereas 16% had an open market system, 5% had a non-exclusive franchise system and 17% offered waste collection and disposal services directly (MSW's follow-up presentation at the May 27, 2022 FERC meeting is attached hereto as **Exhibit B**); and

WHEREAS, the City Commission on July 20, 2022 via Resolution No. 2022-32228, approved Public Works' request to extend, on a month-to-month basis, the contract term of the Non-exclusive Commercial Franchise Waste Contractor Agreement and Service Agreement with Waste Management Inc. of Florida, and Waste Connections of Florida, Inc., for a period not to exceed twelve months through September 30, 2023; and

WHEREAS, the item was heard and discussed at several additional FERC and City Commission meetings that took place between July 2022 and July 2023, culminating in a request by the Administration at the September 27, 2023 City Commission meeting for authorization to issue RFQ 2023-506-WG (the "RFQ") for the selection of qualified franchise waste haulers to provide multifamily residential and commercial waste collection and disposal services and the

adoption by the Commission of Resolution No. 2022-32833 authorizing the issuance of the RFQ; and

WHEREAS, pursuant to Resolutions 2023-32617 and 2022-32833, the City Commission also authorized the month-to-month extension of the non-exclusive Franchise Waste Contractor Agreements and accompanying franchise fees, in-kind services, and other program contributions, as well as the Service Agreement for the collection of waste and recyclable materials at City-owned properties and rights of way, all of which were set to expire on September 30, 2023, until such time as the solicitation process of the RFQ was completed and the new contracts are in place; and

WHEREAS, because this Resolution directs the administration to terminate the RFQ and issue a Request for Proposals ("RFP") for a single hauler, the month-to-month extensions should remain in effect until such time as a new franchise agreement is awarded pursuant to the RFP; and

WHEREAS, the City has given further consideration to the desirability of pursuing an exclusive franchise/single waste hauler solution for multifamily residential and commercial waste collection and disposal services; and

WHEREAS, in addition to the benefits afforded by an exclusive franchise system as previously reported by MSW at the April 29, 2022 FERC meeting, an exclusive franchise system would yield the following advantages:

- Standardized collection costs
- Stabilized yearly cost increases for users
- More efficient routing of collection vehicles
- Enhanced enforcement of health and safety laws as a result of having a single contractor to monitor
- Easier supplemental customer support by the City (or possibly require the franchisee to have customer support staff dedicated exclusively to addressing the concerns of City customers to obviate or at least minimize the need for the City to have its own supplemental customer support team).


NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission direct the Administration to terminate Request for Qualifications (RFQ) 2023-506-WG for Non-Exclusive Franchise waste haulers to provide multi-family and commercial waste collection and disposal and to prepare a Request for Proposals (RFP) for a "Single Hauler" for such services, to award an exclusive franchise for such services to the qualified proposer having the most competitive and comprehensive proposal, including with respect to customer pricing, such RFP to be reviewed and approved by the Mayor and City Commission prior to issuance; and, further, approving the extension, on a month-to-month basis, of the contract term for the following agreements until such time as the new franchise agreement to be awarded pursuant to the RFP becomes effective: (1) the non-exclusive franchise waste contractor agreements between the city and (a) Waste Management Inc. of Florida and (b) Waste Connections of Florida, Inc. (collectively, the Franchise Waste Contractors") and (2) the service agreement among the city and the Franchise Waste Contractors for additional solid waste collection services and collection of recyclable materials at city owned properties, parks, rights of way, and other public facilities and properties; and further, approving the city manager's execution of amendments,

effective as of October 1, 2023, to the franchise agreements and service agreement memorializing the approved term extension.

PASSED AND ADOPTED this 13 day of March, 2023.


Steven Meiner, Mayor

ATTEST:


MAR 15 2024
Rafael E. Granado, City Clerk



(Sponsored by Commissioner Laura Dominguez)

Co-Sponsored by Commissioner David Suarez

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney *AD*

2-11-24

Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Rafael A. Paz, City Attorney
DATE: March 13, 2024

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DIRECTING THE ADMINISTRATION TO TERMINATE REQUEST FOR QUALIFICATIONS (RFQ) 2023-506-WG FOR NON-EXCLUSIVE FRANCHISE WASTE HAULERS TO PROVIDE MULTI-FAMILY AND COMMERCIAL WASTE COLLECTION AND DISPOSAL AND TO PREPARE A REQUEST FOR PROPOSALS (RFP) FOR A "SINGLE HAULER" FOR SUCH SERVICES, TO AWARD AN EXCLUSIVE FRANCHISE TO THE QUALIFIED PROPOSER HAVING THE MOST COMPETITIVE AND COMPREHENSIVE PROPOSAL, INCLUDING WITH RESPECT TO CUSTOMER PRICING, SUCH RFP TO BE REVIEWED AND APPROVED BY THE MAYOR AND CITY COMMISSION PRIOR TO ISSUANCE; AND, FURTHER, APPROVING THE EXTENSION, ON A MONTH-TO-MONTH BASIS, OF THE CONTRACT TERM FOR THE FOLLOWING AGREEMENTS UNTIL SUCH TIME AS THE NEW FRANCHISE AGREEMENT TO BE AWARDED PURSUANT TO THE RFP BECOMES EFFECTIVE: (1) THE NON-EXCLUSIVE FRANCHISE WASTE CONTRACTOR AGREEMENTS BETWEEN THE CITY AND (A) WASTE MANAGEMENT INC. OF FLORIDA AND (B) WASTE CONNECTIONS OF FLORIDA, INC. (COLLECTIVELY, THE "FRANCHISE WASTE CONTRACTORS") AND (2) THE SERVICE AGREEMENT AMONG THE CITY AND THE FRANCHISE WASTE CONTRACTORS FOR ADDITIONAL SOLID WASTE COLLECTION SERVICES AND COLLECTION OF RECYCLABLE MATERIALS AT CITY OWNED PROPERTIES, PARKS, RIGHTS OF WAY, AND OTHER PUBLIC FACILITIES AND PROPERTIES; AND FURTHER, APPROVING THE CITY MANAGER'S EXECUTION OF AMENDMENTS AS OF OCTOBER 1, 2023 TO THE FRANCHISE AGREEMENTS AND SERVICE AGREEMENT MEMORIALIZING THE APPROVED TERM EXTENSION.

BACKGROUND/HISTORY

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify name of lobbyist(s) and principal(s): N/A

ANALYSIS

The proposed Resolution was prepared at the request of the sponsor, Commissioner Laura Dominguez

SUPPORTING SURVEY DATA

N/A

FINANCIAL INFORMATION

N/A

**Is this a "Residents Right
to Know" item, pursuant to
City Code Section 2-14?**

No

**Does this item utilize G.O.
Bond Funds?**

No

Legislative Tracking

Office of the City Attorney

Sponsor

Commissioner Laura Dominguez and Co-sponsored by Commissioner David Suarez

ATTACHMENTS:

Description

- ☐ Resolution
- ☐ Exhibit "A"
- ☐ Exhibit "B"

Exhibit A
MSW Presentation at April 29, 2022 FERC Meeting

Commercial Solid Waste Services Franchise Agreement

**Miami Beach City Commission
Finance & Economic Resiliency
Committee**

April 29, 2022



Midatlantic Solid Waste (MSW) Consultants

- Founded in 2004
- Headquartered in Orlando with offices in Pennsylvania & Maryland
- Key Practice Areas:

- Solid waste system planning
- Material stream characterization
- Collection and facility operations
- Recycling program optimization
- Solid waste user fee and rate studies
- Procurement and contracting support



Project Overview:

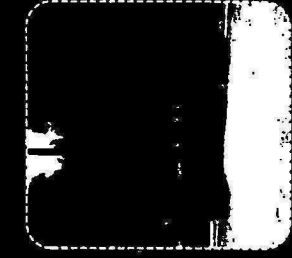
- MSW Consultants engaged by City in November 2021 to support 2022 re-bid of commercial solid waste franchise services. Key project tasks include:

Benchmarking of Regional Cities

Business Outreach & Rate Analysis

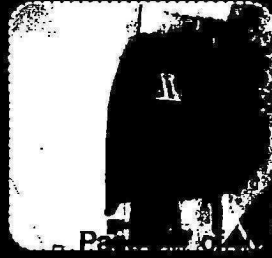
Procurement Support & Recommendations

Miami Beach Solid Waste & Recycling Services Overview:



Residential up to 8 Units = ~6,700 Households

- Includes single-family homes and residential structures up to 8 dwelling units
- 2x week garbage; weekly yard trash; scheduled bulk (Waste Connections)
- Weekly recycling (Coastal Waste & Recycling – through Miami-Dade County)
- Drop-off services for bulk, yard trash, e-waste, etc.



Commercial, incl. Multi-family 8+ units = ~2,300 properties. Collection services from:

- Dumpsters
- Compactors
- Roll-out carts

Commercial and multi-family properties contract directly with haulers for service



Miami Beach Commercial Solid Waste Service Providers:

- Waste Management:

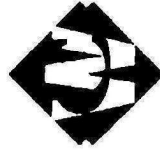
- 61% of market share
- ~1,400 properties or accounts



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- Waste Connections:

- 39% of market share
- ~900 properties or accounts



WASTE CONNECTIONS, INC.

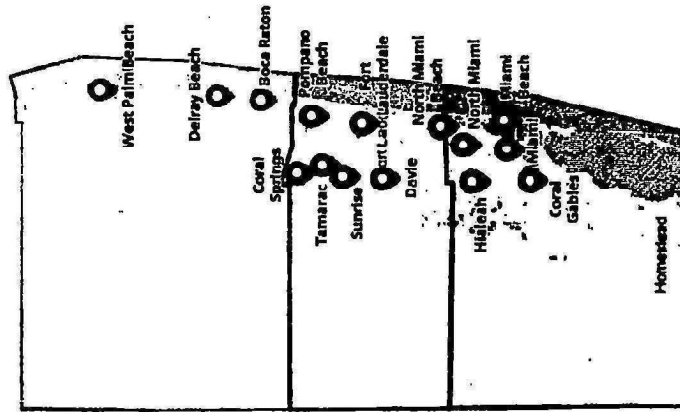


Contract Terms & Selected Special Services:

- Contract terms:
 - Contracts initiated in October 2014
 - Price is negotiated between haulers and customers; City is not involved in setting fee structure.
 - 3-year extensions in September 2019
 - Contracts expire September 30, 2022
 - Staff to seek month-to-month extensions to September 30, 2023, to facilitate procurement process
- In-kind services:
 - Collections at 30+ City facilities
 - Public litter/recycling can collections (approx. 1000 containers) & special events collections containers
- Other funding support:
 - \$400,000 for illegal dumping programs
 - \$90,000 for environmental education
 - \$60,000 for 4 Household Hazardous Waste events
 - \$25,000 for environmental programs

Benchmarking:

- Researched cities in:
 - Miami-Dade County
 - Broward County
 - Palm Beach County
- Evaluated contracts and pricing for 10 cities



Solid Waste Management System Approaches:

Less Regulatory Control  More Regulatory Control

Open Market

- Allows for larger number of companies to compete
- Solid waste generators hire their own hauler

Non-Exclusive

- Can permit multiple franchisees who compete for service
- Can be organized by geographic area
- *Current Miami Beach system*

Exclusive

- Franchisee is only service provider and has exclusive "right" to provide service

Commercial Collection System Organization in Other Cities

City	County	Population	Form of Regulation
Boca Raton	Palm Beach	97,422	Non-Exclusive Franchise
Coral Gables	Miami-Dade	49,248	Exclusive Franchise
Coral Springs	Broward	134,394	Exclusive Franchise
Davie	Broward	105,691	Exclusive Franchise
Delray Beach	Palm Beach	66,846	Exclusive Franchise
Hialeah	Miami-Dade	223,109	Open Market
Miami	Miami-Dade	442,241	Open Market
Miami Beach	Miami-Dade	82,890	Non-Exclusive Franchise
North Miami	Miami-Dade	60,191	Exclusive Franchise
North Miami Beach	Miami-Dade	43,676	Exclusive Franchise
Pompano Beach	Broward	112,046	Exclusive Franchise
Sunrise	Broward	97,335	Exclusive Franchise
Tamarac	Broward	71,897	Exclusive Franchise
West Palm Beach	Palm Beach	117,415	Non-Exclusive Franchise

Blue = Contracts and rates analyzed

Standard Commercial Container Rate Matrix

- Pricing matrix is best practice in commercial solid waste services contracting
- Provides transparent framework for how services will be priced

		Pickups Per Week				
		1x	2x	3x	4x	5x
Container Type	Size					
Dumpster	2 yd	\$ ____	\$ ____	\$ ____	\$ ____	\$ ____
Dumpster	3 yd	\$ ____	\$ ____	\$ ____	\$ ____	\$ ____
Dumpster	4 yd	\$ ____	\$ ____	\$ ____	\$ ____	\$ ____
Dumpster	6 yd	\$ ____	\$ ____	\$ ____	\$ ____	\$ ____
Dumpster	8 yd	\$ ____	\$ ____	\$ ____	\$ ____	\$ ____

Comparing Commercial Container & Compactor Rates

Commercial Containers

City	Requires Standard Commercial Container Pricing?
Coral Gables	Yes
Coral Springs	Yes
Davie	No
Delray Beach	No
North Miami	Yes
North Miami Beach	Yes
Pompano Beach	Yes
Sunrise	Yes
Tamarac	No
West Palm Beach	Yes

7/10 require haulers to use standard rate matrix

Commercial Compactor

City	\$ Charge	Disposal Included?
Coral Gables	\$514	No
Coral Springs	\$442	No
Davie	\$275	No
Delray Beach	\$266	No
North Miami	\$235 - \$378	Yes
North Miami Beach	\$513 - \$719	Yes
Pompano Beach	\$337 - \$569	No
Sunrise	\$262	No
Tamarac	\$320	No
West Palm Beach	N/A	N/A

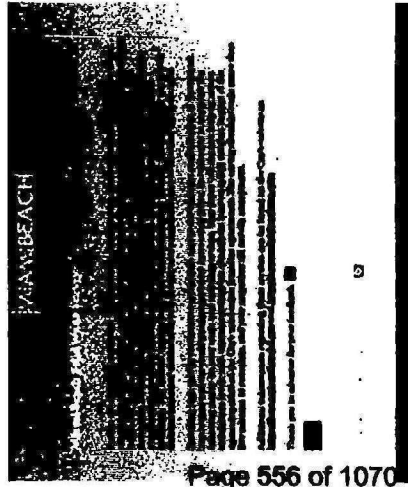
Compactor pricing consistent with industry-standard but rates vary widely

Comparing City Multi-Family Service Approaches

- Four profiled cities include multi-family dwellings as separate customer class
 - Rates per-household:
 - Delray Beach (\$6.05/month)
 - North Miami Beach (\$14.79/month)
 - Pompano Beach (\$16.44/month)
 - Tamarac (\$5.12/month)
- Six cities treat multi-family properties similar to commercial establishments
 - Coral Gables
 - Coral Springs
 - Davie
 - North Miami
 - Sunrise
 - West Palm Beach

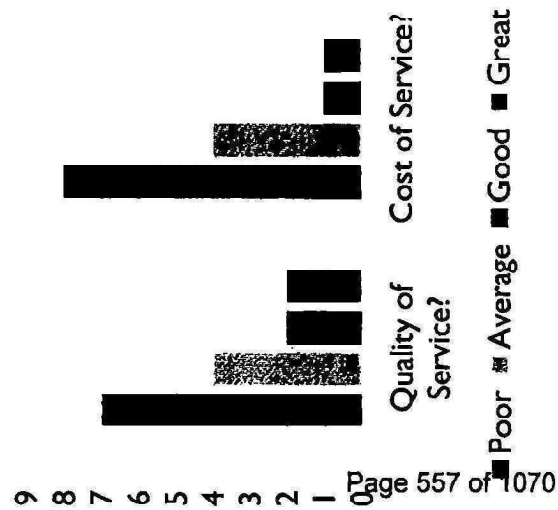
Business Outreach:

- MSW Consultants developed 14-question survey to gather feedback on MF/C garbage and recycling services
- Request was for survey to be distributed to members
- Organizations contacted:
 - Lincoln Road BID
 - Washington Avenue BID
 - Ocean Drive Association
 - Normandy Fountain Business Association
 - Miami Beach Chamber of Commerce
 - Florida Restaurant & Lodging Association (Miami-Dade County chapter)
 - Miami Quality Management (property management firm)
- Only 15 property or business owner respondents
- Total potential audience of 1,500+

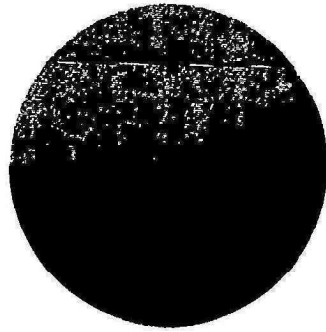


Survey Responses:

Existing Service Quality & Cost?



What is Most Important?



- High-Quality Service
- Getting Lowest Price
- Ability to Select Hauler

Business Outreach: Qualitative Input

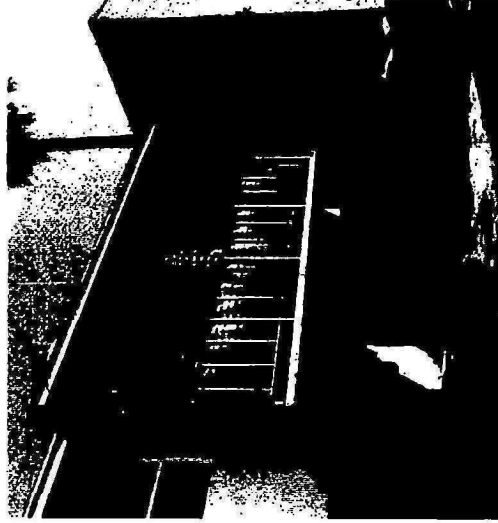
- Improve quality of service, including collection consistency
- Improve hauler accountability
- Add clarity to hauler to property contract pricing, including special charges
- Decrease traffic and the number of trucks on the street
- Increase uniformity (i.e., more standard dumpsters and carts)
- City support for contractor customer service, enforcement, contract disputes

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Rate Analysis - Multi-Family :

- MSW Consultants obtained pricing information and hauler invoices from property management firm
- 15 properties total; range in size from 6 to 21 dwelling units
- Analyzed hauler invoices from 15 properties to review:
 - Service levels (garbage & recycling)
 - Container types
 - Charges and fees (including by type)
 - Costs
 - ✦ Per service
 - ✦ Per household
 - Service capacity
 - ✦ Garbage
 - ✦ Recycling

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Rate Analysis Multi-Family:

- Rates for garbage and recycling vary widely
- Many invoices include supplemental charges:
 - Environmental
 - Administrative
 - Regulatory cost recovery
 - Fuel charges
- Inconsistency in garbage and recycling capacity per HH
 - Low capacity in the form of smaller containers or fewer pickups can lead to container overflow or disposal of recyclables

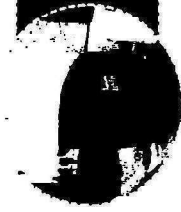
Garbage	Low	High	Average
Cost/Month/Cubic Yard	\$20.05	\$79.26	\$44.69
Cost/Month/HH	\$22.64	\$85.38	\$43.27
Weekly Capacity (in Lbs. per HH)	6.8	40.7	23.6

Recycling	Low	High	Average
Cost/Month/Cubic Yard	\$25.82	\$91.99	\$50.40
Cost/Month/HH	\$5.88	\$24.89	\$11.02
Weekly Capacity (in Lbs. per HH)	1.82	5.10	2.6

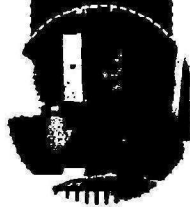
New franchise agreement should establish capacity standards

Commercial Procurement Support

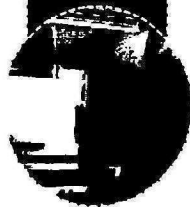
- Issue competitive procurement for commercial services only
- Change from non-exclusive system to exclusive system
 - Commercial recycling must remain open-market, but exclusive hauler can still provide services
- Sanitation Division to assume greater responsibility for contractor management, customer service, and invoicing
- MSW Consultants to draft procurement documents and assist with evaluations



Dumpsters



Compactors



Carts

Pros & Cons of Exclusive Collection:

Pro

- ✓ Procurement process allows for competitive pricing
- ✓ Prices should decrease for most businesses
- ✓ Improved service level and pricing transparency
- ✓ Improved operational efficiencies & economies of scale
- ✓ Streamlined contract management and oversight
- ✓ Improved hauler accountability
- ✓ Less truck traffic on streets
- ✓ Fewer GHG emissions

Con

- ✗ Limited customer choice
- ✗ Some rates may increase
- ✗ Perceived reduction in market competitiveness

Potential Bidding Market:

South Florida Municipal Contracts



Waste
Management



Waste
Connections

WASTE CONNECTIONS, INC.



Republic Services



Coastal Waste &
Recycling



Waste Pro



FCC
Environmental
Services

563 or 1070

Other Potential Market Entrants



GFL
Environmental



JJ's Waste &
Recycling



Summary of Recommendations:

☒ **Authorize staff** to procure commercial solid waste franchise services under an **exclusive franchise system**

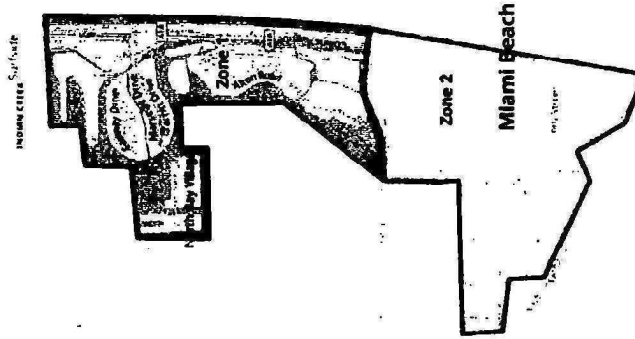
☒ **Authorize staff to negotiate month-to-month extensions not to exceed 12 months** with Waste Management and Waste Connections to allow for procurement process to move forward

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Other Options:

1. Revert to open-market for commercial collections:
 - a. City could license haulers
2. Maintain status quo approach with 2 non-exclusive haulers

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Thank You & Questions

John Culbertson
Principal
(407) 380-8951
jculbertson@mswconsultants.com

Phil Bresee
Senior Consultant
(954) 604-9475
pbresee@mswconsultants.com



Exhibit B
MSW Presentation at FERC May 27, 2022 Meeting

Solid Waste Hauler Commercial Franchise Hauler Presentation

AVIA BEACH
RISING
ABOVE

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Update to

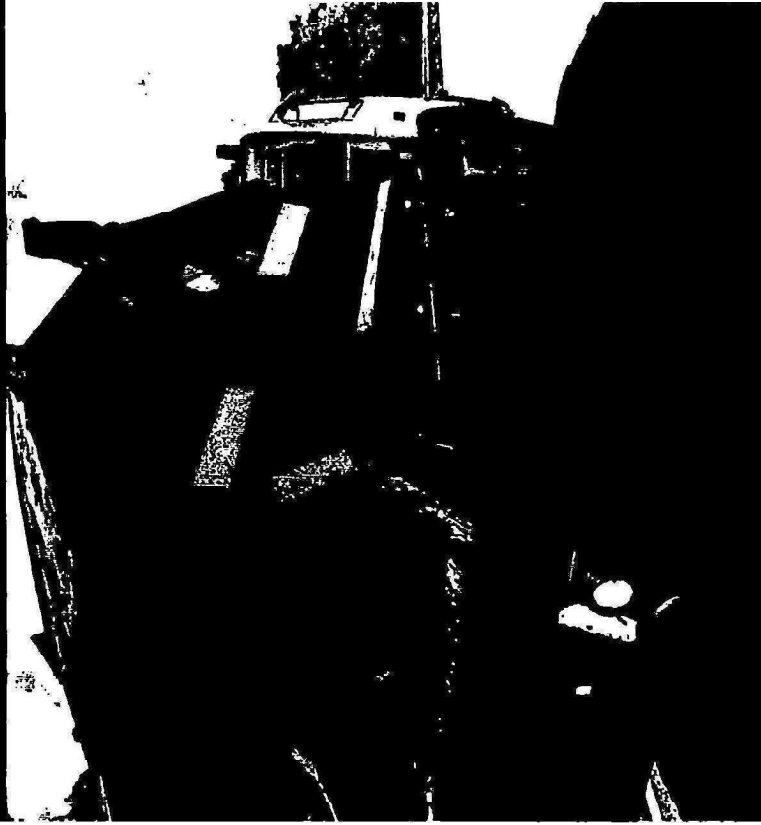
April 29, 2022, FERC Meeting

Takeaways from the Last Presentation

- *Low Response to the On-Line Survey*
 - *Only 15 Responses Received*
- *Limited Municipality Data Sampling Reviewed*
 - *13 Municipalities*

Solid Waste Forum

In-Person Public Meeting



Join the City of Miami Beach for a solid waste forum to discuss our commercial franchise waste hauler services for larger condominium, apartment buildings and businesses. Staff will be present to answer questions and collect input using a customer service survey.

Thursday, June 23, 2022 from 6 PM to 7:30 PM
Miami Beach Golf Clubhouse
2301 Alton Road

For more information, please contact Kevin Pulido at
kevinpulido@miamibeachfl.gov

MIAAMI BEACH

www.miamibeachfl.gov

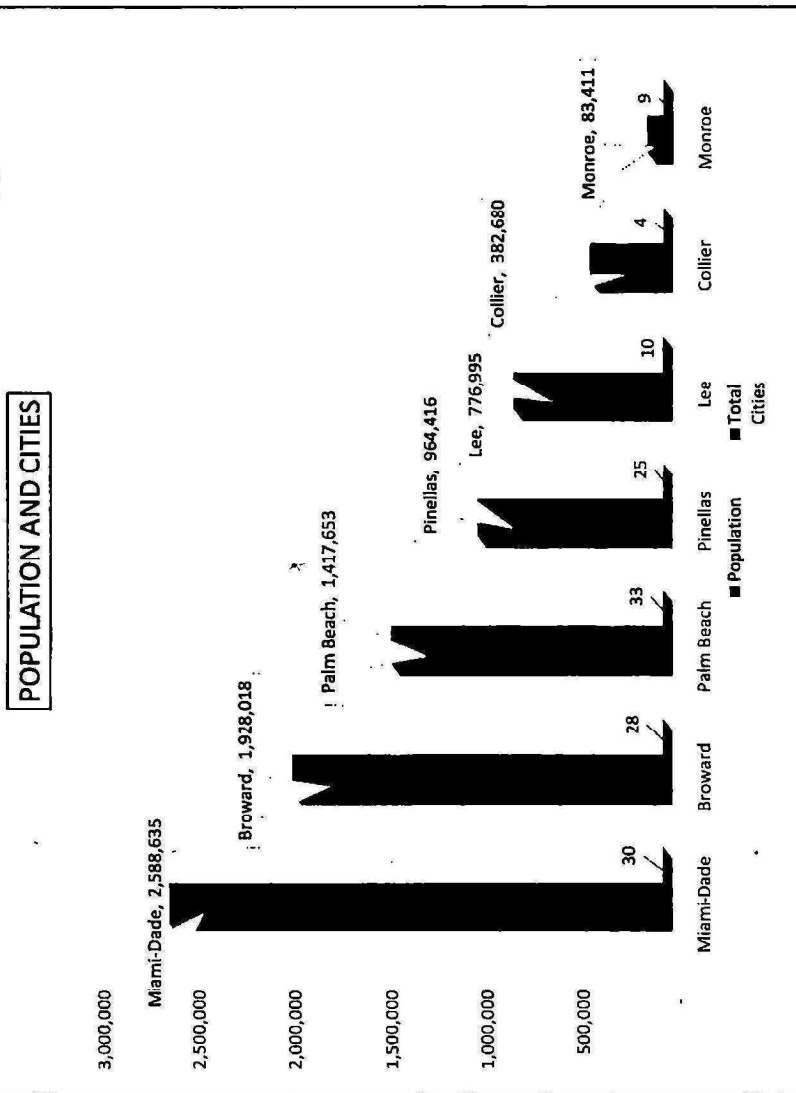
To request this material in a language other than English, please call 305.261.2489 and select 1 for English or 2 for Spanish. Please call 305.261.2489 for more information. This material is for informational purposes only and does not constitute an offer of any financial product or service.

Thirteen Municipalities Were Reviewed

City	County	Population	Form of Regulation
Boca Raton	Palm Beach	97,422	Non-Exclusive Franchise
Coral Gables	Miami-Dade	49,248	Exclusive Franchise
Coral Springs	Broward	134,394	Exclusive Franchise
Davie	Broward	105,691	Exclusive Franchise
Delray Beach	Palm Beach	66,846	Exclusive Franchise
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Miami	Miami-Dade	442,241	Open Market
Miami Beach	Miami-Dade	82,890	Non-Exclusive Franchise
North Miami	Miami-Dade	60,191	Exclusive Franchise
North Miami Beach	Miami-Dade	43,676	Exclusive Franchise
Pompano Beach	Broward	112,046	Exclusive Franchise
Sunrise	Broward	97,335	Exclusive Franchise
Tamarac	Broward	71,897	Exclusive Franchise
West Palm Beach	Palm Beach	117,415	Non-Exclusive Franchise

Population by county for the cities reviewed

- 91 Municipalities in Tri-County Area
- 48 Municipalities in Four Additional Counties
- Total of 139 Municipalities Reviewed

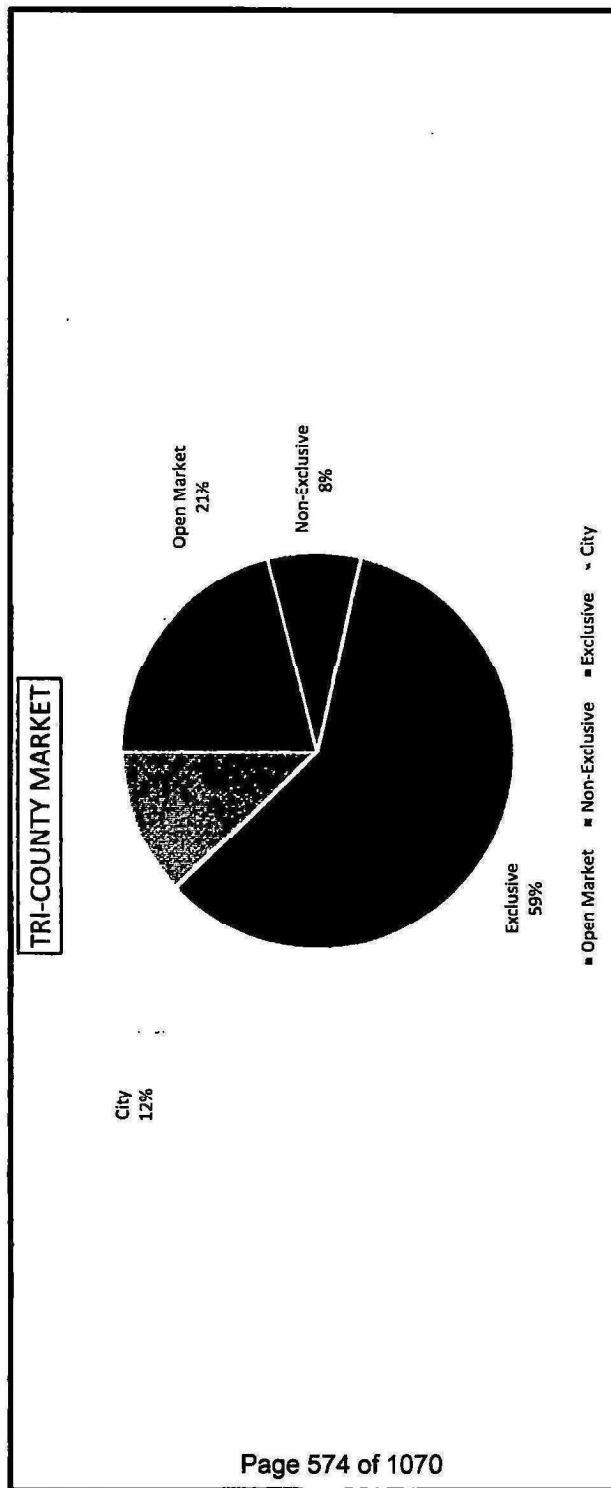


Number of Cities Reviewed

Cities Reviewed

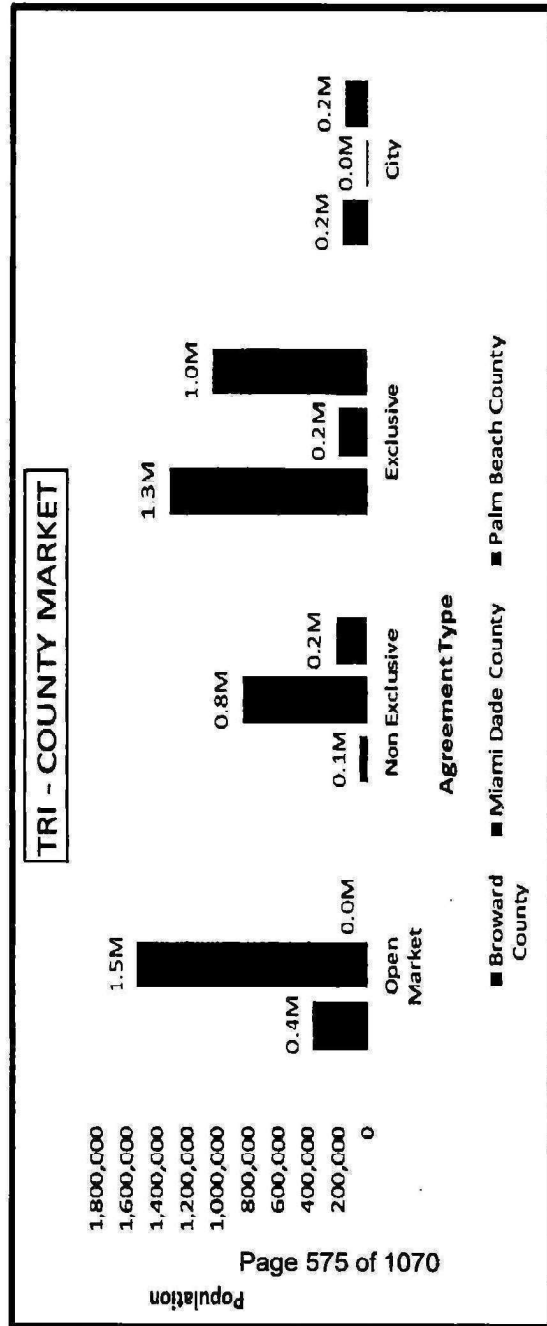
County	Population	Total Cities	Open Market	Non Exclusive	Exclusive	City
<i>Miami-Dade</i>	2,588,635	30	15	4	8	3
<i>Broward</i>	1,928,018	28	3	1	21	3
<i>Palm Beach</i>	1,417,653	33	1	2	25	5
<i>Pinellas</i>	964,416	25	3	0	12	10
<i>Lee</i>	776,995	10	0	0	9	1
<i>Collier</i>	382,680	4	0	0	3	1
<i>Monroe</i>	83,411	9	0	0	9	0
Totals	8,141,808	139	22	7	87	23
			16%	5%	63%	17%

Tri-County Market By Percentage



County	Open Market	Non-Exclusive	Exclusive	City	Total Cities
Tri Counties	19	7	54	11	91
	21%	8%	59%	12%	100%

Tri-County Market By Population



Open Market
Non Exclusive
Exclusive
City
Total Population

Broward County	Miami Dade County	Palm Beach County	Total Tri-County
371,767	1,535,985	2,142	1,909,894
58,714	838,728	217,301	1,114,743
1,324,978	195,826	1,035,528	2,556,332
172,559	18,096	162,682	353,337
1,928,018	2,588,635	1,417,653	5,934,306

Miami-Dade County

County	City Names	Open Market	Non Exclusive	Exclusive Franchise	City
MIAMI - DADE COUNTY	Unincorporated	1,197,784			
	Bal Harbour			3,084	
	Biscayne Park	3,119			
	Coral Gables			50,993	
	Cutler Bay	45,478			
	Doral		80,793		955
	Golden Beach				
	Hialeah		225,493		
	Hialeah Gardens			23,055	
	Indian Creek			84	
	Key Biscayne	14,815			
	Medley	1,047			
	Miami		449,717		
	Miami Beach		82,795		
	Miami Gardens	112,508			
	Miami Lakes	30,857			
	Miami Shores				11,548
	Miami Springs	13,851			
	North Bay Village			8,211	
	North Miami			60,775	
	North Miami Beach			43,749	
	Opa-locka	16,570			
	Palmetto Bay	24,499			
	Pinecrest	18,419			
	South Miami	12,071			
	Sunny Isles Beach	22,655			
	Surfside				5,593
	Sweetwater	19,941			
	Virginia Gardens	2,371			
	West Miami			7,275	
	Total Service by Population	1,535,985	838,718	195,826	18,096
Total # of Cities		15	4	8	3
					30

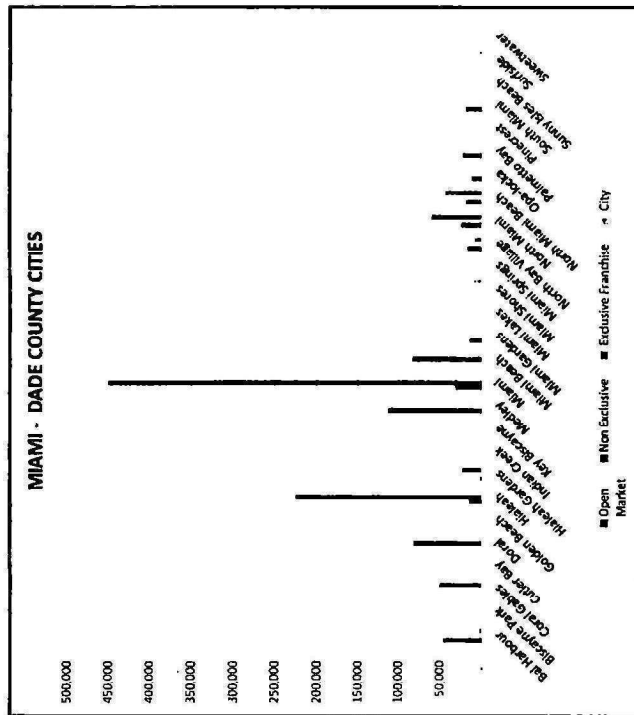
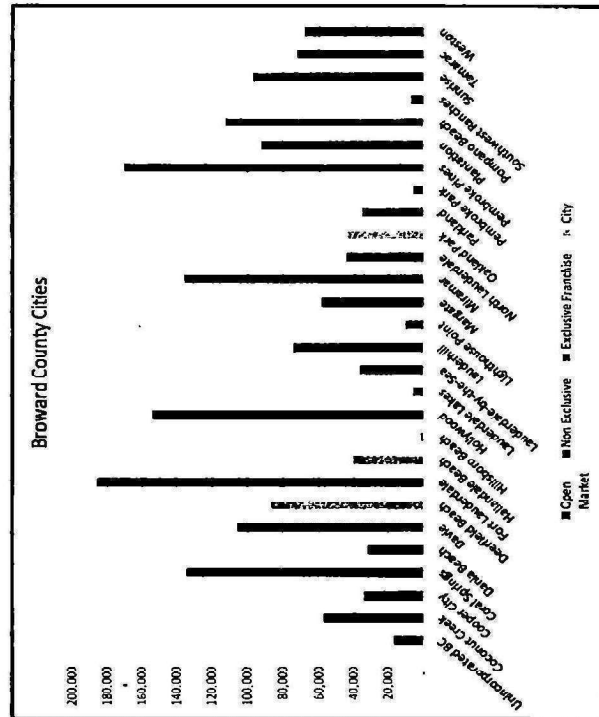


Chart excludes unincorporated Miami-Dade County which has a population of 1,197,184 and is open market.

Broward County

County	City Names	Open Market	Non Exclusive	Exclusive Franchise	City
BROWARD COUNTY	Unincorporated BC			37,079	
	Coconut Creek			57,871	
	Cooper City			34,337	
	Coral Springs			134,558	
	Dania Beach	31,837			
	Deerfield			106,199	
	Deerfield Beach				87,06
	Fort Lauderdale	186,076			
	Hallandale Beach				41,57
	Hillsboro Beach			1,986	
	Hollywood	153,854			
	Lauderdale Lakes			6,203	
	Lauderdale-by-the-Sea			36,647	
	Lauderhill			74,538	
	Lighthouse Point			10,499	
	Margate		58,714		
	Miami			136,007	
	North Lauderdale			44,855	
	Oakland Park				44,96
	Parkland			35,440	
	Pembroke Park			6,222	
	Pembroke Pines			170,857	
	Plantation			92,618	
	Pompano Beach			113,144	
	Southwest Ranches			7,675	
	Surprise			57,359	
	Tamarac			72,509	
	Weston			68,305	
Total Service by Population		371,767	58,714	1,324,978	172,559
Total # of Cities		3	1	21	3
					28



Palm Beach County

County	City Names	Opnt Market	Non Exclusive	Exclusive Franchise	City
PALM BEACH COUNTY	SWA Zone 1 - 6			653,174	
	Belle Glade				16,893
	Boca Raton		98,046		
	Boynton Beach				81,011
	Delray Beach			66,948	
	Greenacres			44,549	
	Gulf Stream			949	
	Haverhill			2,193	
	Highland Beach			4,300	
	Juno Beach			3,862	
	Jupiter			61,121	
	Lake Clarke Shores			3,562	
	Lake Park				9,039
	Lake Worth Beach				42,572
	Loxahatchee Groves			3,379	
	Mangonia Park	2,142			
	North Palm Beach				13,167
	Ocean Ridge			1,828	
	Pahokee			5,580	
	Palm Beach			9,253	
	Palm Beach Gardens			55,755	
	Palm Beach Shores			1,330	
	Royal Palm Beach			39,144	
	South Bay			4,924	
	Tequesta			6,152	
	Wellington			61,768	
	West Palm Beach		119,255		
	Westlake			1,757	
Total Service by Population		2,142	217,301	1,055,528	162,682
Total # of Cities		1	2	25	5
					33

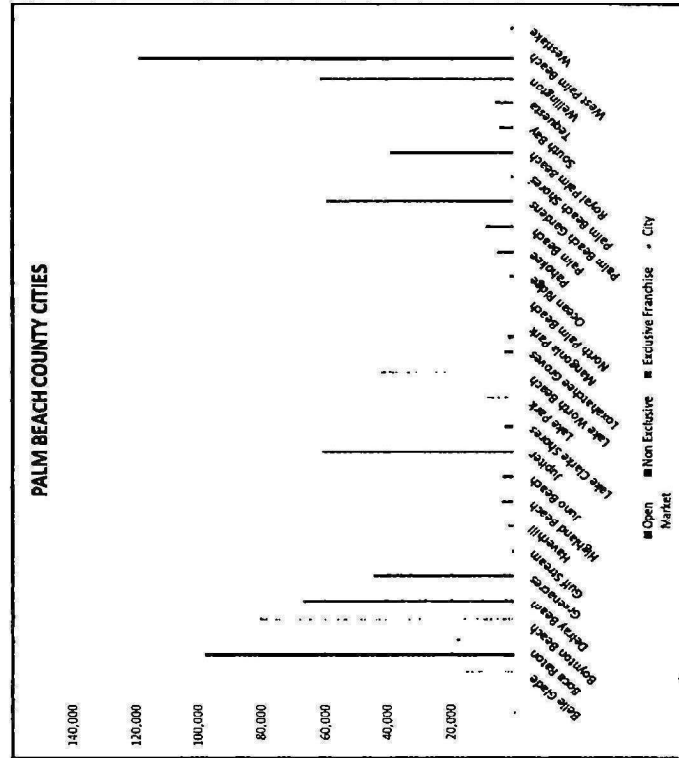
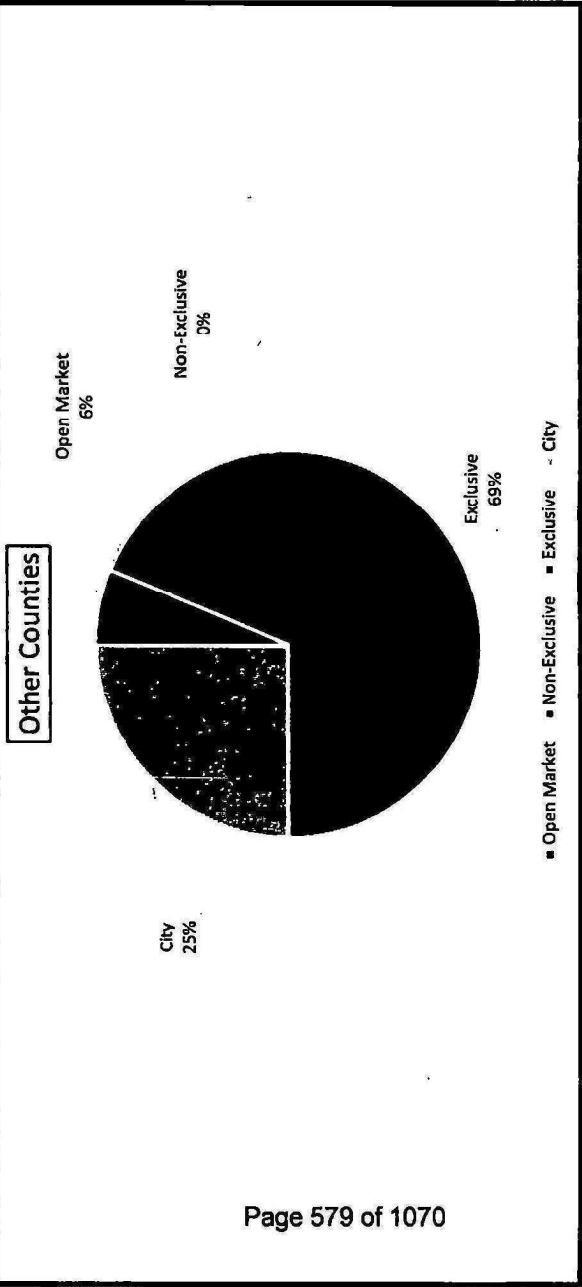


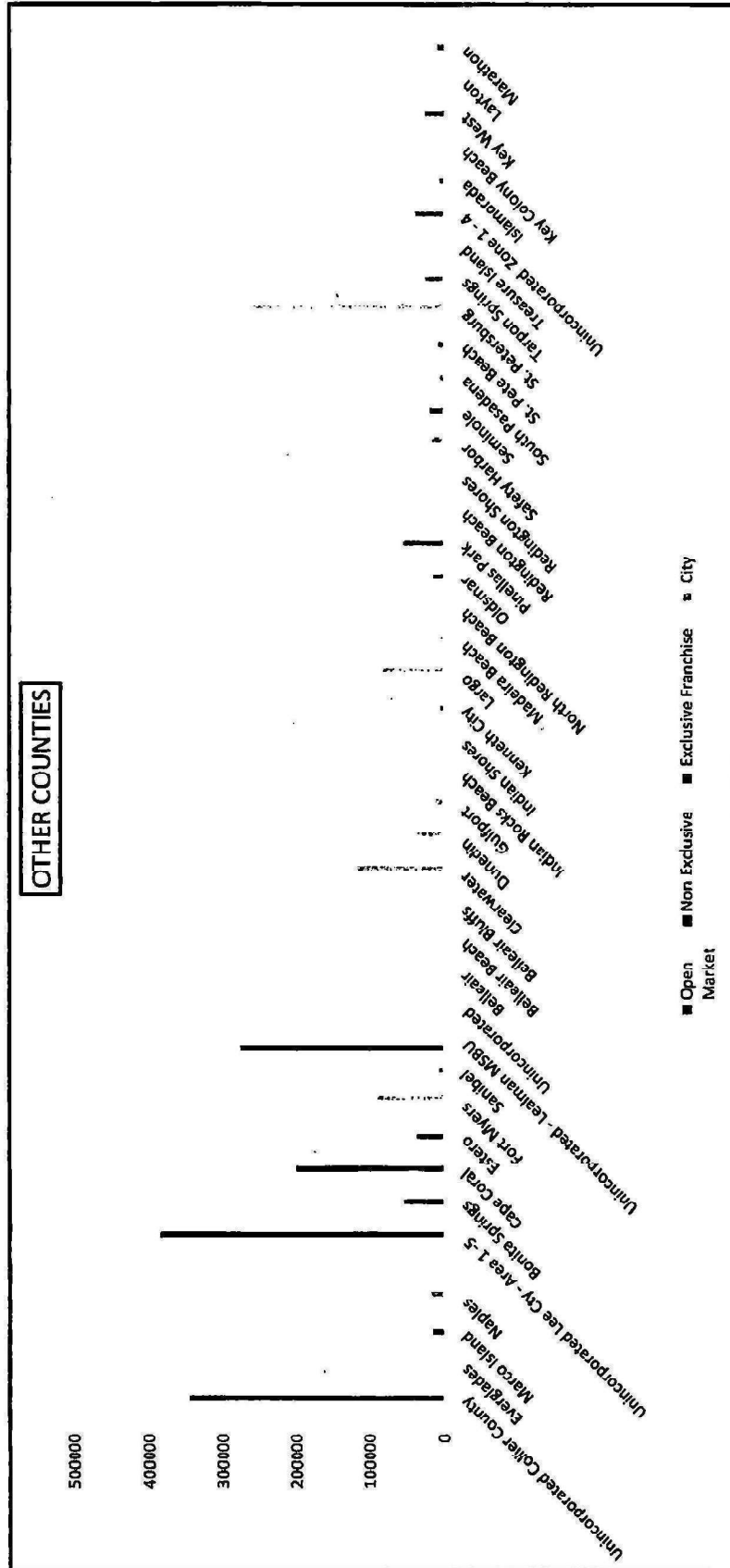
Chart excludes SWA ("Solid Waste Authority") Jones 1- 6 which has a population of 653,174 and is exclusive franchise.

Other Florida Counties By Percentages



County	Population	# of Cities	Open Mkt	Exclusive	City
Pinellas	964,416	25	3	12	10
Lee	776,995	10	0	9	1
Collier	382,680	4	0	3	1
Monroe	83,411	9	0	9	0
Totals	2,207,502	48	3	33	12
		100%	6%	69%	25%

Other Florida Counties By Population



Summary of Haulers with Exclusive Franchises

HAULERS FOR CITIES WITH EXCLUSIVE FRANCHISES

County	Exclusive	Advanced Disposals	Coastal Waste	FCC Environmental	Goode Company	Keys Sanitary	Narathon Garbage Service	Southern Waste	Republic Services	Waste Connection	Waste Mgmt	Waste Pro
Miami - Dade	8									3	4	1
Broward	21		2						3		10	6
Palm Beach	25	1	1	3	1			1			13	5
Pinellas	12								1	7	4	
Lee	9	1									3	5
Collier	3										3	
Monroe	9	1				1	4				3	
Totals	87	3	3	3	1	1	4	1	4	10	40	17
% of	63%	3%	3%	3%	1%	1%	5%	1%	5%	11%	46%	20%

MIAMI BEACH
RISING
ABOVE

Thank you