

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

Agency: Department of General Services
User Agency: Department of Public Works
Caption: Fort Totten Solid Waste Transfer Station
Stormwater Management Initiatives – Residential
Drop-off Ramp and Canopies for Solid Waste Roll-
Off Area
Contract No.: DCAM-22-CS-SS-0002
Contractor (proposed): Consys, Inc

FINDINGS

1. AUTHORIZATION:

D.C. Code Section 2-354.04 and DCMR 47, Section 4718.

2. MINIMUM NEED:

The Department of General Services (DGS) on behalf of the Department of Public Works has an immediate need to implement stormwater initiatives including the construction of a residential drop-off ramp and install canopies over the solid waste roll-offs area at the Fort Totten Transfer Station before September 30, 2022. The stormwater management initiatives shall also include construction of a raingarden for holding and treating run-offs, rerouting all stormwater underground facilities to redirect contaminated stormwater to the raingarden and filter facilities, relocate electrical posts and other utilities, and create new vehicle exist points and traffic pattern at the facility. The stormwater initiatives are required to bring the site’s stormwater within acceptable water quality standards established by the Environmental Protection Agency (EPA) and contained in the Clean Water Act (CWA). Failure to make the required improvements necessary to address the on-going discharge exceedances will result in increased federal oversight and scrutiny and potential fines and penalties as described below:

Type of Violation	Penalty per day violation
Criminal	
Negligent	Up to \$25,000 per day and 1 year in prison
Knowing	Up to \$50,000 per day and 3 years in prison
False statement	Up to \$10,000 and 2 years in prison
	Double for repeat offender
Civil	\$59,973 per day
Administrative	Class I Penalty: \$23,989 per day; up to \$59,973 total Class II Penalty: \$23,989 per day; up to \$299,857 total

3. ESTIMATED FAIR AND REASONABLE PRICE:

The estimated fair and reasonable price for the stormwater initiatives including the construction of a residential drop-off ramp and installation of canopies over the solid waste roll-offs area is \$5,990,568.50.

4. FACTS WHICH JUSTIFY A SOLE SOURCE PROCUREMENT:

In 2018 the District entered into a Consent Decree to address violations to the Clean Water Act identified by the EPA. The EPA inspection report specifically identified the bulk trash pile and the pollution prevention practices at the Fort Totten Transfer Station as a major contributor to the District's violations. The Consent Decree, among other things, required the District to pay \$35,000 in fines and implement a \$85,000 Supplemental Environmental Project. Though the Consent Order expired in January of 2021, the District and the Fort Totten facility remain under heightened scrutiny and rigorous testing to ensure the facility's discharge is within acceptable water quality standards. The facility will not achieve and sustain acceptable standards without the implementation of the proposed stormwater management initiatives.

Stormwater regulations enacted by the EPA in 1990 established permit requirements for industrial stormwater discharges. The EPA issued the first Multi-Sector General Permit (MSGP) for those facilities in 1995. The 2021 MSGP became effective on March 1, 2021. The Fort Totten Transfer Station is subject to the terms of the 2021 MSGP. Central to the MSGP is the requirement for facilities with industrial stormwater discharge to investigate the cause of any exceedance and take appropriate action to address the situation or face possible fines. The District is required to share monitoring data from Fort Totten with the EPA. Recent monitoring conducted by the EPA and the District's consultant indicate that the District's level of pollutants are likely to reach levels triggering formal action from the EPA. The Fort Totten facility must take corrective action to address the monitoring exceedances found at the facility or face possible fines and penalties.

The proposed stormwater management initiatives, specifically the construction of the Residential Drop-off Ramp and the installation of the canopies to cover the roll-off area will provide the appropriate action required by the 2021 MSGP to achieve and maintain acceptable water quality standards. The improvements will bring the District permanent control of pollutions from this source immediately. This will be accomplished by allowing District residents the ability to drive up the ramp and easily transfer their residential solid waste directly into the 20 feet roll-off container. The roll-offs, to be located under the canopy, will not come in contact with rain and snow, therefore, virtually eliminating the possibility of pollutants in the run-off.

The District must move swiftly and responsibly to address these issues.

There is only one Contractor with the unique knowledge and expertise and in a position to satisfy the project's time requirements and maximize the federal grant funds to be used to finance the project, Consys, Inc. (Consys).

Consys was selected in 2019 through a competitive invitation for bid to replace the tipping floor and renovate the administrative offices at the Fort Totten facility. The implementation of stormwater management best practices were included in the scope of that project. During the course of that project, Consys identified existing underground structures and their network related to stormwater, their routes, connections, and discharge points to the District's stormwater system; information and knowledge that will be critical to the successful and timely completion of the proposed stormwater management initiatives. In addition Consys, through its work on the replacement of the tipping floor, completed the construction of filtration system to improve the facility's water quality. These efforts have afforded Consys unique knowledge of the EPA's CWA testing and reporting practices as well as a familiarity with the key District and federal stakeholders including the District's Department of Energy and Environment, DC Water and the EPA.

In addition, Consys, by virtue of the Contractor's on-site status, possesses the unique ability to save time and valuable resources. The Contractor is able to begin work immediately ensuring the project is finished on time and the District is able to maximize the availability of federal funding for the project. Consys' presence at the facility virtually eliminates the need and added expense associated with mobilization to initiate the project.

The District requires timely action to bring the water quality standards at the Fort Totten facility within acceptable standards required by the EPA and the CWA. Consys' by virtue of the site specific experience, knowledge and expertise gained through its current work at the facility as well as its on-site status and the resulting savings in time and resources is uniquely qualified to complete the construction of the Residential Drop-off Ramp and install canopies over the roll-off areas of the facility.

**5. CERTIFICATION BY THE DEPARTMENT OF GENERAL SERVICES
OPERATION MANAGER OF CAPITAL CONSTRUCTION DIVISION:**

I hereby certify all statements herein are true, correct and complete and that the information given herein is accurate to the best of my knowledge and belief.

Gbolahan Williams
Operations Manager
Capital Construction Division
Department of General Services

Date

**6. CERTIFICATION BY THE DEPARTMENT OF GENERAL SERVICES
DEPUTY DIRECTOR CAPITAL CONSTRUCTION:**

I hereby certify all statements herein are true, correct and complete and that the information given herein is accurate to the best of my knowledge and belief.

Tiffany B. Moore
Deputy Director
Capital Construction Division
Department of General Services

Date

**7. CERTIFICATION BY THE DEPARTMENT OF PUBLIC WORKS CHIEF
ADMINISTRATIVE OFFICER**

I hereby certify all statements herein are true, correct and complete and that the information given herein is accurate to the best of my knowledge and belief.

Daniel J. McCoy
Chief Administrative Officer
Department of Public Works

Date

**8. CERTIFICATION BY THE DEPARTMENT OF GENERAL SERVICES
CONTRACT SPECIALIST:**

I have reviewed the above findings and certify that they are sufficient to justify the use of the sole source method of procurement under the cited authority. I certify that the notice of intent to award a sole source procurement action was published in accordance with 27 DCMR 4718 and that ____ response(s) was/were received. I recommend that the Department of General Services Chief Contracting Officer approve the use of the sole source procurement method for this proposed procurement action.

James H. Marshall
Senior Contract Specialist
Department of General Services

Date

DETERMINATION

Based on the above findings and in accordance with the cited authority, I hereby determine that it is not feasible or practical to invoke the competitive solicitation process under either Section 402 or 403 of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Law 18-371; D.C. Official Code § 2-354.02 or 2-354.03). Accordingly, I determine that the District is justified in using the sole source method of procurement.

George G. Lewis, CPPO
Chief Contracts and Procurement and
Chief Contracting Officer
Department of General Services

Date