

MASTER AGREEMENT



Document ID: 00002045

Fiscal Year: 2018

Version: 14 Modification

Buyer: Kathy Madary *Km*

Buyer Phone: 410-887-3888

Effective Date: 11/07/11

Expiration Date: 11/06/18

Date Printed: November 01, 2017

BALTIMORE COUNTY, MARYLAND
Office of Budget and Finance

Vendor ID: VC006398
Enernoc Inc

1414 Key Highway Ste L

Baltimore MD 21230

Document Description: Energy Consulting Services

Approved by County Council: 11-07-2011

Not to Exceed:

Reason for Modification:

Modified Master Agreement to exercise the sixth of nine one-year renewal options from 11/07/2017 to 11/06/2018. Vendor must maintain the insurance coverages required under the terms and conditions while this contract is in effect, including all renewal terms. All prices, terms, and conditions remain the same.

Extended Description:

Incorporating the Baltimore County Solicitation #P-063 dated May 3, 2011, as amended by Amendments # 1 and 2, including, but not limited to, the Bid Response, Procurement Affidavit, MBE/WBE Affidavit, and Insurance, as applicable. Originally approved by the County Council 11/07/2011.

As approved by the County Council on 10/21/13, and as allowed per bid specifications, amend the contract to add a new service called the EfficiencySMART Insight program at seven (7) listed County locations.

As approved by the County Council on 11/07/16, amend the contract to revise the seven (7) locations participating in the EfficiencySMART Insight program and the cost and level of services for each site as noted in the amendment.

This is not an order to ship (or begin service). A Delivery Order (DO) or Purchase Order (PO) must be issued before you are authorized to ship (or begin service). This is a notice that the Master Agreement (MA) referenced above has been awarded to you based on the bid (or proposal) you submitted. All terms, conditions and specifications of the solicitation will apply to all orders placed from this agreement. Any agency authorized to purchase from this agreement must issue an order and reference the Master Agreement number, line number and commodity item number for each item. Changes in items to be furnished are not permitted (unless approved by the Purchasing Division prior to delivery). Prior approval must also be obtained before distributors can be added or deleted. If a distributor list was submitted, the contractor must send copies of this award to each distributor. Quantities listed are estimated and no quantities are guaranteed. The contractor must supply actual requirements ordered at the Master Agreement price awarded.

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Line No.	Commodity	UoM	Unit Price	Discount % Off Catalog \$	Contract Amount
1	91841	MO	\$1,754.0000	0.0000	\$0.00
Energy consulting services, for all BRCPC electricity accounts, as per specifications					
2	91841	MO	\$517.0000	0.0000	\$0.00
Energy consulting services, for all BRCPC natural gas accounts, as per specifications					
3	91841	LOT	\$0.0000	0.0000	\$0.00
Energy consulting services, demand load response program, Contractor to pay County for curtailing power usage when called-up by PJM.					
4	91841		\$0.0000	0.0000	\$0.00
Energy Conservation Consulting, Enablement Fees, for implementation of the EfficiencySMART Insight program at the following locations: 111 W. Chesapeake Ave., Bldg. 930; 401 Bosley Ave.; 404 Kenilworth Drive; 6401 York Road; 400 Washington Ave.; 7735 Wise Ave., Bldg. 780; and 700 E. Joppa Road. Costs per site will be pro-rated as noted in Amendment No. 1 to the contract, Attachment A-1, as may be adjusted. Fully executed amendment, including Attachments, is attached to the MA.					
5	91841	MO	\$250.0000	0.0000	\$0.00
Energy consulting services, EfficiencySMART Insight program, 111 W. Chesapeake Ave., Bldg 930 (County Office Building), as per Amendment No. 1 to Agreement dated 10/21/13 and modified to be "EIS-Basic" as per Amendment No. 2 to Agreement dated 11/07/16.					
6	91841	MO	\$1,000.0000	0.0000	\$0.00
Energy consulting services, EfficiencySMART Insight program, 401 Bosley Ave. (County Courts Building), as per Amendment No. 1 to Agreement dated 10/21/13 and modified to be "EIS-Professional" as per Amendment No. 2 to Agreement dated 11/07/16.					
7	91841	MO	\$250.0000	0.0000	\$0.00
Energy consulting services, EfficiencySMART Insight program, 404 Kenilworth Drive, (Corrections), as per Amendment No. 1 to Agreement dated 10/21/13 and modified to be "EIS-Basic" as per Amendment No. 2 to Agreement dated 11/07/16.					
8	91841	MO	\$1,000.0000	0.0000	\$0.00
Energy consulting services, EfficiencySMART Insight program, 6401 York Road (Drumcastle Center), as per Amendment No. 1 to Agreement dated 10/21/13 and modified to be "EIS-Professional" as per Amendment No. 2 to Agreement dated 11/07/16.					
9	91841	MO	\$250.0000	0.0000	\$0.00
Energy consulting services, EfficiencySMART Insight program, 400 Washington Ave. (Historic Courthouse), as per Amendment No. 1 to Agreement dated 10/21/13 and modified to be "EIS-Basic" as per Amendment No. 2 to Agreement dated 11/07/16.					
10	91841	MO	\$0.0000	0.0000	\$0.00
Deleted Item					
11	91841	MO	\$500.0000	0.0000	\$0.00
Energy consulting services, EfficiencySMART Insight program, 700 E. Joppa Rd. (Public Safety Building), as per Amendment No. 1 to Agreement dated 10/21/13 and modified to be "EIS-Standard" as per Amendment No. 2 to Agreement dated 11/07/16.					

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Line No.	Commodity	UoM	Unit Price	Discount % Off Catalog \$	Contract Amount
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12	91841	MO	\$250.0000	0.0000	\$0.00
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Energy consulting services, EfficiencySMART Insight program, 105 W. Chesapeake Avenue (Jefferson Building) added as "EIS-Basic" per Amendment No. 2 to Agreement dated 11/07/16.

13	91841	EACH	\$3,000.0000	0.0000	\$0.00
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Energy consulting services, EfficiencySMART Insight program, one-time implementation fee for 105 W. Chesapeake Avenue (Jefferson Building) as noted in Amendment No. 2 to the Agreement dated 11/07/16.

Renewal Period No: 1	Renewal Begin Date: 11/07/12	Renewal End Date: 11/06/13
Renewal Period No: 2	Renewal Begin Date: 11/07/13	Renewal End Date: 11/06/14
Renewal Period No: 3	Renewal Begin Date: 11/07/14	Renewal End Date: 11/06/15
Renewal Period No: 4	Renewal Begin Date: 11/07/15	Renewal End Date: 11/06/16
Renewal Period No: 5	Renewal Begin Date: 11/07/16	Renewal End Date: 11/06/17
Renewal Period No: 6	Renewal Begin Date: 11/07/17	Renewal End Date: 11/06/18
Renewal Period No: 7	Renewal Begin Date: 11/07/18	Renewal End Date: 11/06/19
Renewal Period No: 8	Renewal Begin Date: 11/07/19	Renewal End Date: 11/06/20
Renewal Period No: 9	Renewal Begin Date: 11/07/20	Renewal End Date: 11/06/21

1. Purchases are subject to the Baltimore County Charter and Article 10, Title 2 of the Baltimore County Code, 2003, as amended. Baltimore County will not be responsible for any goods delivered or services rendered unless covered by an official order signed by the Purchasing Agent or his/her designee. No change, modification, or revision shall be binding upon Baltimore County unless made in writing by the Purchasing Agent or his/her designee. Contractor shall not assign its obligations to perform hereunder in whole or in part without the prior written consent of the Purchasing Agent or his/her designee.
 2. If this Master Agreement, Contract, or Purchase Order is for an amount of \$25,000 or less, the County Executive and the County Administrative Officer are not required by the Baltimore County Code to sign. Accordingly, any such Master Agreement, Contract or Purchase Order that is for \$25,000 or less shall be signed by the Director of the Office of Budget and Finance or his designee as allowed for in the County Code.
 3. The County's Solicitation, Request for Proposal, or Request for Bid, as applicable, shall be incorporated herein in its entirety.
 4. The Contractor may not and shall not amend or modify the terms and conditions of this Master Agreement, Contract, or Purchase Order, as applicable, unless such amendment or modification is in writing and signed by a legally authorized signatory of the Contractor and the County, and the Baltimore County Office of Law.
 5. Invoicing: Invoices must be submitted, in duplicate, to the Office of Budget and Finance, Disbursements Section, Room 148, 400 Washington Avenue, Towson, MD 21204-4665. Invoices must show the vendor's federal tax identification number (FEIN) or social security number, as appropriate and order number and line number(s) that correspond with the order(s). Cash discount periods will be computed either from the date of delivery and acceptance of the goods ordered, or the date of receipt of correct and proper invoices prepared in accordance with terms of Baltimore County's order, whichever date is later. Under no circumstances will interest be paid.
 6. Incorporation by reference: If this purchase order is the result of a written solicitation, the solicitation and response are hereby incorporated by reference.
 7. County Council Approval: Prior approval of the Baltimore County Council is required on contracts for services in excess of \$25,000 per year or in excess of two years.
 8. Fee Prohibition: The contractor warrants and represents that it has not employed or engaged any person or entity to solicit or secure this agreement, and that it has not paid, or agreed to pay any person or entity a fee or any other consideration contingent on the making of this agreement. If any suit, claim, or demand shall arise concerning such a fee, the contractor agrees to indemnify, hold harmless, and defend the County from all such claims, suits, or demands.
 9. Discrimination Prohibited: In the execution of the obligations and responsibilities hereunder, including, but not limited to, hiring or employment made possible by or relating to this agreement, the Contractor shall not discriminate against persons because of race, color, religion, sex, age, political affiliation, national origin, marital status, sexual orientation, gender identity or expression, genetic information, status as a veteran, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.
 10. Applicable Law: This agreement shall be governed and construed in accordance with the laws and regulations of the State of Maryland and Baltimore County.
 11. Any litigation arising out of or relating in any way to this agreement or the performance thereunder shall be brought only in the courts of Maryland, and the Contractor hereby irrevocably consents to such jurisdiction. To the extent that the County is a party to any litigation arising out of or relating in any way to this agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in the courts of the State of Maryland.
 12. Funding Out: If funds are not appropriated or otherwise made available to support continuation of this agreement in any fiscal year, the County shall have the right to terminate the agreement without prior notice to the contractor and without any obligation or penalty.
 13. Material Safety Data Sheet: If products to be provided to the County contain any substances that could be hazardous or injurious to a person's health, a material safety data sheet (MSDS) must be provided to the Purchasing Division, 400 Washington Avenue, Room 148, Towson, MD 21204-4665. This applies also to any product used by a contractor when providing a service to the County.
 14. Recycled and Recyclable Products: The contractor agrees that it will not use packaging materials made of non-recyclable Styrofoam (Polystyrene). Additionally, any materials used in packing to cushion, protect and ship are to be made of recycled, recyclable or biodegradable materials.
 15. Copiers, scanners, printers, facsimile equipment and any other office equipment that contain hard drives that have the capability to store data internally, will be required to provide overwrite capability with an option to return hard drives to the County for proper disposal at the end of life.
 16. Termination for Convenience: The County may terminate this agreement, in whole or in part, without cause, by providing written notice thereof to the contractor. In the event of termination, without cause, the County shall advise the contractor in writing of the termination date and of work to be performed during the final days prior to termination. The contractor shall be paid for all reasonable costs incurred by the contractor up to the date of termination set forth in the written notice of termination. The contractor will not be reimbursed for any anticipatory profits, which have not been earned up to the date of termination. Payments to be provided on a lump sum basis shall be prorated by the County based on the services rendered or goods delivered up to the date of termination set forth in the written notice.
 17. Termination for Default: In addition to other available rights and remedies, the County shall have the right upon the happening of any default, without providing notice to the contractor: 1) To terminate this agreement immediately, in whole or in part; 2) To suspend the contractor's authority to receive any undisbursed funds; and/or 3) To proceed at any time or from time to time to protect and enforce all rights and remedies available to the County, by suit or any other appropriate proceedings, whether for specific performance or any covenant, term or condition set forth in the contract, or for damages or other relief, or proceed to take any action authorized or permitted under applicable law or regulations. Upon termination of this agreement for default, the County may elect to pay the contractor for services provided or goods delivered up to the date of termination, less the amount of damages caused by the default, all as determined by the County in its sole discretion. If the damages exceed the undisbursed sums available for compensation, the County shall not be obligated to make any further disbursements hereunder.
 18. Indemnification: The contractor shall indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney's fees and court costs which may be incurred or made against the county, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of the agreement. The contractor shall not be responsible for acts of gross negligence or willful misconduct committed by the County.
- The contractor shall also indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney's fees and court costs which may be made against the County, its employees, agents or officials by any third party arising from the alleged violation of any third party's trade secrets, proprietary information, trademark, copyright, patent rights, or intellectual property rights in connection with the agreement.
19. Defense: Unless notified in writing by the County to the contrary, the contractor shall provide defense for the County, its employees, agents and officials and in doing so the contractor shall allow the County to participate in said defense of the County, its employees, agents and officials, to the extent and as may be required by the County and the contractor shall cooperate with the County in all aspects in connection therewith. All filings, actions, settlements, and pleadings shall be provided to the County for comment and review prior to filing or entering thereof. No filing, action, settlement or pleading shall be filed or entered without the prior consent and approval of the County.
 20. Property Lost, Damaged or Destroyed: Any deliverables to be provided by the contractor will remain at the contractor's risk until written acceptance by Baltimore County, and the contractor will replace, at the contractor's expense, all deliverables lost, damaged or destroyed by any cause whatsoever.

Reviewed and Approved:

By: *R. Keith Bose*
 Director of Budget and Finance
 or Director's designee

Baltimore County, Maryland

By: _____
 County Administrative Officer

Reviewed for Legal Sufficiency
 (based upon typeset document)

By: _____
 Baltimore County Office of Law
 (approval does not convey approval or disapproval of substantive nature of the transaction)