



Metropolitan Washington  
Council of Governments

## **REQUEST FOR PROPOSALS NO. 23-008**

### **Maryland NPDES Phase I MS4 Standard Good Housekeeping Plan Development**

Electronic submissions shall be uploaded to COG's  
solicitation "Lockbox."

See Lockbox Instructions in Section IX.D

Proposals shall be uploaded no later than 2:00 p.m. EDT,

March 30, 2023

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**REQUEST FOR PROPOSALS (RFP)**

**RFP# 23-008**

**Release Date – March 3, 2023**

**I. SUMMARY**

|  |  |
|--|--|
| Services requested                           | This request for proposals is being issued by the Metropolitan Washington Council of Governments (COG) which will be managing the contract on behalf of the following seven Maryland counties: Anne Arundel, Baltimore, Charles, Frederick, Harford, Montgomery, and Prince George’s Counties to develop, implement, and maintain a Good Housekeeping Plan (GHP) for County/City-owned properties not required to be covered under Maryland’s Storm Water Industrial General Permit. |
| Contract type                                | Phase I – Specific Price for Scope of Work<br>Phase II - Indefinite Delivery Indefinite Quantity (IDIQ) based on future Task Orders  |
| Number of contracts                          | One (1) for Phase I and possibly one (1) or more for Phase II  |
| Duration of contract                         | Phase I - One year from award date with option to renew/extend up to three additional years  |
| Disadvantaged Business Enterprise (DBE) goal | A DBE plan is required with this submission for Phase I only. Phase II - Later Task Orders will require a DBE Plan.  |
| Payment method                               | Net 30   |
| Planned duration of RFP advertisement        | 4 weeks  |
| Start of advertisement period for RFP        | March 3, 2023  |
| Deadline for questions about RFP             | 5 working days before deadline   |
| Deadline for COG responses to questions      | 3 working days before deadline   |
| Deadline for proposals                       | March 30, 2023 2pm EDT   |

**II. METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS**

This request for proposals is being issued by the Metropolitan Washington Council of Governments (COG) which will be managing the contract on behalf of the following seven Maryland counties: Anne Arundel, Baltimore, Charles, Frederick, Harford, Montgomery, and Prince George’s Counties.

The Metropolitan Washington Council of Governments (“COG”) is the regional organization of the Washington area’s 24 major local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives.

COG provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management, environmental monitoring, tracking economic development and population growth and their effects on the region, coordinating public safety programs, and promoting childcare and housing for the region. COG is supported by financial contributions from its participating local governments, federal and state government grants, and contracts, and through grants and contracts from foundations and the private sector.

### **III. PROJECT OVERVIEW**

The new requirement in the Maryland Phase I NPDES stormwater permit to develop a Good Housekeeping Plan refers to a stormwater pollution prevention plan for County-owned facilities. These include properties where materials such as pesticides, some landscaping materials, fertilizers and vehicles are stored or maintained, and, as stated in the permits, among other things the plan should include a list of onsite materials and activities, a map, and pollution prevention procedures including assessments and trainings.

On November 5, 2021, the Maryland Department of the Environment (MDE) issued National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (hereafter referred to as “MS4 Permit”) to Anne Arundel, Baltimore and Montgomery Counties, and Baltimore City. On December 2, 2022, MDE issued an MS4 Permit to Prince George’s County, and on December 30, 2022, MDE issued MS4 Permits to Carroll, Charles, Frederick, Harford, and Howard Counties. One of the requirements in the MS4 Permit is to develop, implement, and maintain a Good Housekeeping Plan (GHP) for County/City-owned properties not required to be covered under Maryland’s Storm Water Industrial General Permit. The GHP must be submitted to MDE with the third-year annual report. For those jurisdictions that received their permit in 2021, the GHP must be submitted by December 31, 2024. For those jurisdictions that received their permit in 2022, the GHP must be submitted by December 31, 2025.

The purpose of this solicitation is to contract with a qualified firm to develop Standard GHP template(s) for County/City-owned properties not required to be covered under Maryland’s Stormwater Industrial General Permits where the activities listed in MS4 Permit Part IV.D.4a are performed (Attachment A).

The template should be developed so that participating MS4 jurisdictions can tailor GHPs for the property management activities performed within their individual jurisdiction. The MS4 Permit Part IV.D.4b provides the requirements that must be incorporated in the GHP template(s). MDE has also developed additional guidance (provided in Attachment B).

**IV. ACRONYMS**

|      |  |
|------|--|
| COG  | Metropolitan Washington Council of Governments   |
| GHP  | Good Housekeeping Plan   |
| IDIQ | indefinite delivery/indefinite quantity  |
| MDE  | Maryland Department of the Environment   |
| MS4  | National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System<br><br>MS4 Permit Part IV.D. |

**V. SCOPE OF WORK**

**PHASE I**

The Contractor must develop standard GHP template(s) and list of training options in accordance with the MS4 Permit Part IV.D.4b (Attachment A).

**A. Task 1. GHP Activities**

To develop the GHP templates, the Contractor must organize and administer two meetings with the MS4 jurisdictions, COG, and MDE. The intent of the first meeting is to define activities, and the associated criteria and/or thresholds, which trigger coverage by a GHP. The second meeting is for the Contractor to present the draft activities with associated criteria and/or thresholds that require a GHP.

Activities identified in the MS4 permit Part IV.D.4a include:

- Storage of vehicles and equipment
- Maintenance of vehicles and equipment, including washing
- Storage of fertilizers, pesticides, landscaping materials
- Storage of hazardous materials
- Storage of other materials that could pollute stormwater runoff

Other activities that might require a GHP, may include:

- Storage of salt and other de-icing materials
- Storage of solid waste materials

Deliverable: Draft list of the activities, including criteria and thresholds, that would be covered under a GHP must be provided and presented at the second meeting. Jurisdictions, COG, and MDE will have ten business days to review and provide comments. The contractor will have ten business days to resolve comments and provide the final list of the activities,

including criteria and thresholds, to be covered under a GHP. Jurisdictions, MDE, and COG will have five business days to review and approve the final list of activities.

B. Task 2. Template(s)

For Task 2, the Contractor will develop the GHP template(s) that follow the requirements in MS4 Permit Part IV.D.4.b. These requirements include:

- A map template for the locations of properties covered by the GHP
- A list of potential pollutants and their sources that result from the activities identified in Task 1.
- Description of “property management activities” template
- Written pollution prevention procedures designed to reduce and/or eliminate the occurrence of spills, accidental dumping of materials that may result in a stormwater pollution event, stormwater runoff contamination by stored materials, and/or illicit discharges to the storm drain system.
- Written procedures for annually assessing County properties to prevent the discharge of pollutants, spills, and leaks into its MS4. Identify and develop pollution prevention property assessment checklists and written guidance to ensure stormwater pollution events are eliminated to the extent practicable.
- Written procedures for performing stormwater conveyance system inspections for removing debris that may cause clogging, backups, and flooding. Identify and develop checklists and written guidance for property-specific stormwater conveyance system inspections on subject County properties to ensure the free flow of stormwater within the storm drain system.

The template(s) may be developed for all County/City-owned property or separate GHP templates may be developed for properties with similar use (e.g., recreation and parks, schools).

The Contractor must organize and administer up to two meetings with the MS4 jurisdictions, COG, and MDE for Task 2. The first meeting will discuss and define the potential pollutants associated with the Task 1 activities (i.e., landscaping material, mulch), as well as the written pollution prevention procedures that must be included in the GHP. The second meeting will be for the Contractor to provide and present the draft GHP template(s).

Deliverables: Draft GHP template provided and presented at the second meeting. Jurisdictions and MDE have 15 business days to review and provide comments on the draft. The contractor will have 10 business days to resolve comments and provide the final template(s). Jurisdictions and MDE have 5 business days to review and approve the final GHP template(s).

C. Task 3 Recommend Training

For Task 3, the Contractor shall research and identify appropriate training materials that will fulfill this requirement for the GHP. These training programs may already exist for stormwater pollution prevention plans. The training types include, but may not be limited to,

classroom, virtual, in the field, and toolbox talks. The list should include, but not be limited to a description of the training, the activities and procedures covered by the training, vendor, type of training (e.g., in person or virtual), length of training, and cost.

Deliverable: Detailed descriptions of existing training programs to be delivered concurrently with the final GHP template(s) (Task 2).

#### D. SCHEDULE:

All final deliverables must be delivered no later than November 30, 2023, allowing local jurisdictions time to add jurisdiction-specific information per Permit requirements.

Prior to beginning Task 1, the Contractor should hold a kick-off meeting with the Jurisdictions and Contract Manager. The kick-off meeting should be held within two weeks of the Notice to Proceed.

Task 1 deliverables must be completed within 12 weeks of the Notice to Proceed

Task 2 and 3 deliverables must be completed within 16 weeks of completing Task 1.

## PHASE II

Under this Phase working with individual jurisdictions Task Orders may be issued to the contractor and will contain a detailed scope of work and a request to submit a DBE Plan and cost proposal. COG, at its discretion, may request additional information as part of the Contractor's response to individual Task Orders to evaluate and understand the level of effort and cost proposed to complete the requirements of the scope of work.

Additional requested information may include, and would not be limited to, an understanding of the project, technical approach, and key personnel. The successful proposer(s) awarded this IDIQ contract is not guaranteed any minimum award. All Task Orders are subject to available funding and will be issued on an "as needed" basis.

Phase II is for the ongoing development of the Good Housekeeping Plan for interested jurisdictions in accordance with the template(s) developed in Phase I.

GHP development tailored for requesting jurisdiction [this will depend on whether we have one template for the whole jurisdiction or multiple templates based on similar use properties],

Tasks may include:

- Outreach/meetings with jurisdiction on-site property managers,
- Mapping location of GHP properties,
- Training module set up and implementation,
- Performing annual inspections/assessments,
- Reporting for MS4 annual report and geodatabase
- Developing educational materials, such as factsheets for property managers

## VI. SPECIAL CONDITIONS

The following conditions apply to the Contractor selected:

- A. Federal, state or foreign taxes are not allowable. A certificate will be provided upon request.
- B. Legal fees of any type are not allowable without prior written approval of COG Contracting Officer.
- C. Any work to be subcontracted to a Subcontractor shall be clearly identified and such Subcontractor shall be approved by COG prior to contract issuance.
- D. It is understood that funding for the ensuing contract is contingent upon COG receiving funds from the sponsoring agency.
- E. Payment will be made to the Contractor within 30 days following the receipt of a correct invoice from the contractor and approval of the COG Project Manager.

Contractor shall submit its final invoice within 30 days after expiration of the contract.

- F. In submitting a proposal in response to this RFP, and in performing services under any contract resulting from this RFP, the successful Contractor shall be bound by, and comply with, all the terms, conditions, and requirements contained within this RFP and the resulting contract.
- G. All soft copy and digital materials that Contractor obtains from jurisdictions and agencies to complete the scope of work must be transferred to COG in native machine-readable file formats (e.g., Excel data must be delivered in unprotected, open, read-write Excel files).
- H. All digital submittals, including data products, from all on-call task orders shall be the property of the COG and/or its member agency.
- I. Deliverables should be in common electronic formats and files and are not considered final and complete until the COG Project Manager has confirmed in writing that they have been accepted.

## VII. INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

- A. The primary contract for this RFP will be issued to cover work for Phase I of this Scope of Work. There may be an additional contract or contracts for an Indefinite Delivery/indefinite Quantity (IDIQ) Master Contract(s). Individual Task Orders may be issued and awarded under the Phase II Master Contract(s) and will be issued as not to exceed cost task orders unless otherwise specified in the individual Task Order RFPs.



- B. COG may award a contract(s) based on initial offers received without discussion. Therefore, each initial offer should contain the Proposer's best terms from a price and technical standpoint.
- C. COG may communicate with Proposer's to clarify, verify or obtain additional information about their past performance or experience.

#### **VIII. PERIOD OF PERFORMANCE AND TYPE OF CONTRACT**

This will be a one-year contract with up to three option years following the first year. The contract may be extended by mutual agreement by exercising an optional year, one year at a time, for up to no more than three (3) optional years beyond the base year.

The period of performance is contingent on available funding and satisfactory contractor performance.

COG reserves the right to issue a supplemental solicitation at any time during this period or qualify additional firms as needed. Further, on an as-needed basis, COG reserves the right to procure consultant support for specific projects from firms other than those awarded contracts through this RFP.

#### **IX. PROPOSAL FORMAT AND CONTENT**

All Offerors must submit their proposals following the prescribed format. Adherence to the proposal format by all Offerors will ensure a fair evaluation regarding the needs of COG.

Offerors not following the prescribed format will be deemed non-responsive. A cover letter transmitting the proposal must be signed by an officer authorized to bind the Offeror and included in Section 1.

The proposal must include the following:

##### **Technical Proposal (Sections 1 & 2)**

- A. Section 1. Cover Letter/Proposed method to accomplish the work

In this section of the proposal, respondents must provide a detailed description of their approach to accomplish the Phase I Tasks specified herein.

This section shall include a work plan and schedule and a project management plan that will detail the lines of authority and communication and will support all of the project requirements and logically lead to the deliverables required in this RFP.

A separate section for Phase II will be provided outlining project approach for implement the Phase I plans.

Timely completion of the scope of work outlined for this project is of critical importance. Offerors are to provide a brief description of their current projects and the availability of key personnel proposed in this project.

B. Section 2. Qualifications of the firm and key personnel

This section shall provide the professional credentials and expertise of the firm(s) and key personnel assigned to this program.

Although standard personnel resumes may be included as attachments to the proposal, amplification specific to this solicitation is required in this section. Put Resumes in Section 5 (Optional File Submission).

**Administrative Proposal (Section 3 only)**

C. Section 3. Cost proposals and DBE plan for the Offeror and any Subcontractor(s).

This section should provide the total costs, including all expenses, profits, and fees to be charged to COG for providing the services described above. Proposals shall provide costs for Phase I tasks only as described in Section IV Scope of Work.

The DBE Plan needs to be included with the DBE Form (Attachment D) and copies of all DBE Certification letters of prime or sub-contractors. Failure to provide documentation will result in no points being awarded.

**References (Section 4 only)**

D. Section 4. References of the Consultant and any Subcontractor(s)

The proposed Consultant and any Subcontractor(s) shall provide at least three (3) references whom COG/TPB may contact regarding similar work performed.

Offerors may provide letters of reference from previous relevant clients. Names, titles, addresses, and telephone numbers shall be included for each reference as stipulated in (Attachment C).

E. Section 5. Resumes of Key Personnel (Optional)

All these resumes shall include the key personnel proposed to be a part of COG's project.

The submission should be done in three or four separate files as follows:

- Section 1 & 2 (up to 10 MB) NAME: RFP 23-008 {Firm Name} Technical Proposal
- Section 3 (up to 5 MB) NAME: RFP 23-008 {Firm Name} Administrative Proposal
- Section 4 (up to 5 MB) NAME: RFP 23-008 {Firm Name} References
- Optional - Section 5 (up to 5 MB) NAME: RFP 23-008 {Firm Name} Resumes

Section 1 and 2 should be combined but Section 3 and 4 must be in a separate file.

**X. QUESTIONS, EXCEPTIONS, AND SUBMISSION INSTRUCTIONS**

A. Questions

1. All questions concerning the RFP must be submitted in writing to the Contracts and Purchasing Office at [gcrichlow@mwkog.org](mailto:gcrichlow@mwkog.org) and cc: [purchasing@mwkog.org](mailto:purchasing@mwkog.org) at least five (5) business day prior to the final RFP deadline.
2. All questions will be answered and posted on COG's website as an addendum to this RFP no later than three (3) business days before the submission deadline.
3. No questions will be accepted following the cut-off date.

B. Exceptions

Proposers should note any exceptions to the RFP specifications or Terms and Conditions (including insurance requirements) on a separate sheet marked Exceptions included in the Administrative submission. Exceptions taken do not obligate COG to change the specifications.

C. Proprietary Information

Any proprietary information revealed in the submission should be clearly identified as such.

D. Submission Instructions

1. Proposals as designated below.
2. If the proposer has not already been registered in the MAPT Vender Registration System, then they must start with that process. The link is <https://mwkog.net>.
3. Please use the RFP number (RFP 23-008) and your firm name in the file name of your electronic submissions.
4. Offerors shall submit one (1) electronic copy of each File (A-C) in their proposal to the COG Lockbox system as per the below directions.
  - a. Proposers shall submit one electronic copy of each file to the COG "Lockbox" system in the following fashion:
    - 1) Registration – To utilize the "LOCKBOX" service, your agency **must** be registered on the Mid-Atlantic Purchasing Team Vendor Registration System (VRS) portal at <https://mwkog.net>.

If you are not registered, please do this before accessing the LOCKBOX.

To register:

- Go to the portal at <https://mwkog.net> and click the Vendors listing the left menu on the page.
- Click Register and fill out the form. NOTE: You will need your

company information including your TIN/EIN number if you are a company or your SS if you are a sole proprietor.

- Registering will give you access to the LOCKBOX solicitations.
- Problems registering? Contact [customerservice@eepex.com](mailto:customerservice@eepex.com)

2) Submission – Once registered in the VRS system go to the website at <https://mwcog.net> and click on the Solicitation Listings tab.

Those solicitations utilizing the VRS Lockbox service will be highlighted with a LOCKBOX button.

Click on the LOCKBOX button.

If your agency is interested in submitting a response to this solicitation, click on the REQUEST button. After providing the VRS vendor ID and VIN, you will receive a one-time use bid id and password by email.

Use your credentials for the following:

- To upload your formal bid response and any additional attachments to the lockbox (before the closing time for the solicitation)
- Please limit the size of individual files to 10 MB. If additional files are needed due to size limitations, please email [customerservice@eepex.com](mailto:customerservice@eepex.com) and request additional file space.
- To withdraw your formal response should you wish to cancel your submission or to allow you to replace an already uploaded copy with a modified version
- To verify that the document in the lockbox is the one you uploaded.

If no vendor ID is provided, you will be directed to the registration page.

If you would like to ensure that your company details are correct prior to your upload, then logon to VRS using your VRS vendor ID and VIN then jump to the vendor summary page in VRS to make any changes desired.

To return to the COG solicitation page, after registering or updating your company details, click SOLICITATION LISTINGS button on the VRS home page followed by clicking on the VIEW SOLICITATIONS button for COG on the PENDING SOLICITATIONS page.

**Please complete your registration several days in advance of the due date. Do not wait until the last moment to register. The lockbox cannot be accessed after the closing date/time.**

**DO NOT mail and/or email submissions directly to COG they will be disqualified.**

**XI. METHOD OF PROPOSAL EVALUATION AND SELECTION**

The proposals will be evaluated by a technical selection committee. The selection committee may hold, at COG’s option, a pre-selection meeting with the top-ranked Offerors.

The final recommendation for selection to the COG Contracting Officer may be made based upon interviews and/or a best and final offer submitted by the Offerors, if required by the selection committee.

In evaluating the proposals, the following factors will be considered, with points awarded up to the maximum shown on the next page.

| Factor   | Points |
|--|--------|
| Approach to project tasks spelled out in the Scope of Work   | 45     |
| Relevant experience with the Scope of Work requirements, including thorough understanding of Maryland’s MS4 permit, examples of similar work performed, and experience facilitating group meetings (Business Reference Sheet – See Attachment C) | 20     |
| Relevant experience of Key Staff proposed  | 10     |
| Pricing and Cost (i.e., burdened salaries by staffing level, low/high range for sample work products)  | 10     |
| DBE Plan   | 15     |
| Total Points   | 100    |

**XII. DISADVANTAGED BUSINESS ENTERPRISE**

DBE participation is a factor in Phase I. It is expected that the winning consultant will be a DBE firm or will utilize DBE firms in their work on Phase I and will have to provide DBE Forms demonstrating a good faith effort to utilize DBE to the greatest extent possible on this and any future Task Orders.

COG's DBE Policy may be viewed on its website  
<https://www.mwcog.org/purchasing-and-bids/dbe-policy/>.

COG has determined that consideration of DBE participation will be included in the evaluation factors for Phase I of this RFP.

For Phase I and at a later time for specific Phase II Task Orders a total of 15 possible points (out of a maximum of 100 points) may be awarded for DBE

participation, as measured in dollars, either as the prime contractor or "subcontractor". In the event of a tie in the average total score between two or more proposals, the proposal with the largest percentage of DBE participation, as measured in dollars, will be awarded the contract.

DBE points are to be awarded as follows:

| <u>PARTICIPATION</u> | <u>POINTS</u> |
|----------------------|---------------|
| 10% to 14%           | 3             |
| 15% to 19%           | 6             |
| 20% to 24%           | 9             |
| 25% to 34%           | 12            |
| 35% or more          | 15            |

For the sake of scoring, percentages will be rounded down rather than up. A proposer must meet the minimum scoring percentage to receive full points.

A prime contractor with valid DBE certification will receive 100% participation points.

Federal Law – CFR Part 26.37 (Monitoring Performance) requires COG to include a monitoring and enforcement mechanism to ensure that work committed to DBEs at task order award is performed by DBE’s.

To comply with this requirement, the Contractor is required to provide to COG DBE Compliance Officer with monthly reports on DBE payment(s). This may involve monthly reporting via email.

COG is currently testing a DBE Reporting Software system and the contractors chosen under this master contract award may be required to report through that system rather than direct email. Please save any questions relating to reporting for the task order process.

See the sample DBE Plan form Attachment D. This does not need to be filled out at this time.

**XIII. COOPERATIVE RIDER CLAUSE**

- A. COG, as an agent to member agencies, extends the right to utilize all of the terms, conditions, specifications, and unit or other prices of any contract resulting from this RFP to other public and non-profit agencies.

This is conditioned upon mutual agreement based on the attached Rider Clause (Attachment E - Sample) of all parties pursuant to special requirements which may be appended thereto.

- B. Contractor(s) agrees to notify COG of the Participating Agencies desire to use any contract resulting from this RFP within 30 days of receiving said requests and to fill out

the form provided in Attachment E.

- C. All contracts resulting from this RFP shall be with the individual Participating Agencies. COG assumes no authority, liability or obligation on behalf of any Participating Agency using a contract resulting from this RFP, or any Contractor, or any other entity with respect to this procurement or any contract resulting from it.
- D. Participating Agencies may have other or additional terms and conditions that must be met by the Contractor.
- E. All purchases and payment transactions will be made directly between the Contractor and the Participating Agency except where noted.

**\*\* Remainder of page is blank \*\***

**XIV. PROPOSAL RESPONSE FORM**

RFP 23-008 Response Form (Page 1 of 2)

DATE: \_\_\_\_\_

Company Name - \_\_\_\_\_

|   | Description - PHASE I     | Pricing |
|---|---------------------------|---------|
| 1 | Task 1. GHP Activities    |         |
| 2 | Task 2. Template(s)       |         |
| 3 | Task 3 Recommend Training |         |
| 4 | Other Costs               |         |
| 5 | TOTAL COSTS FOR PHASE I   |         |

*Submission Check List and Required Forms –*

| <u>ITEM</u>  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| Attachment A - Acknowledge and accept all Terms & Conditions   | ___        | ___       |
| <i>(if answered NO - T &amp; C exceptions <b>must</b> be noted on a separate sheet with all other exceptions. NOTE: failure to do so will make this submission non-responsive)</i> |            |           |
| Attachment B - Certification Regarding Debarment   | ___        | ___       |
| Attachment C - References  | ___        | ___       |
| Attachment D - DBE Plan Form   | ___        | ___       |
| Attachment E - Acknowledge and Accept Rider Clause   | ___        | ___       |
| Accept Electronic Payment (See Terms and Conditions)   |            |           |
| P-Card   | ___        | ___       |
| ACH  | ___        | ___       |



METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS  
 RFP 23-008 MARYLAND NPDES PHASE I MS4  
 STANDARD GOOD HOUSEKEEPING PLAN DEVELOPMENT

Insurance Acord Form – Proof of Insurance provided by the insurer  
 as per the Terms and Conditions. \_\_\_\_\_  
 Failure to meet the insurance requirements \_\_\_\_\_  
 at the time of the submission will result in the  
 submission being deemed non-responsive.

Exceptions - \_\_\_\_\_

*(If yes please attach all on separate sheet(s) at the end of the RFP response.)*

Addendums Acknowledged (if applicable) -

|             |         |        |         |
|-------------|---------|--------|---------|
| Addendum #1 | YES ___ | NO ___ | N/A ___ |
| Addendum #2 | YES ___ | NO ___ | N/A ___ |
| Addendum #3 | YES ___ | NO ___ | N/A ___ |

Others \_\_\_\_\_

*NOTE: Failure to acknowledge ALL addendums could result in disqualification of the submission.*

In submitting a bid in response to this RFP, the authorized signatory below acknowledges having read and understood the entire solicitation and agrees to accept the Terms and Conditions set forth in this RFP.

The signatory below represents that he/she has the authority to bind the entity named below to the response submitted and any contract awarded as a result of this solicitation.

NAME: \_\_\_\_\_

COMPANY: \_\_\_\_\_

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

TELEPHONE: \_\_\_\_\_ WEBSITE: \_\_\_\_\_

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

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

*Note: Unsigned responses may be disqualified. E-signatures are acceptable.*

## ATTACHMENT A TERMS AND CONDITIONS

*NOTE: COG will not negotiate Terms and Conditions at the time of contract award.  
Exceptions MUST be made now.  
Failure to do so may disqualify the proposer now or at a later time.*

This document sets out provisions generally applicable to Metropolitan Washington Council of Governments (“COG”) contracts. The provisions herein do not constitute a complete agreement, and must be appended to a document, executed by all parties, which identifies the specific work to be performed, compensation, term, incorporated attachments, and special conditions, if any.

*Proposers are categorized as Subrecipients in this section*

**A. Energy Conservation - 42 U.S.C. § 6321 et seq.**

The SUBRECIPIENT agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**B. Clean Water Requirements - 33 U.S.C. § 1251 et seq.**

1. The SUBRECIPIENT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. The SUBRECIPIENT agrees to report each violation to COG and understands and agrees that COG will, in turn, report each violation, as required, to assure notification to appropriate federal agencies including the appropriate EPA Regional Office.
2. The SUBRECIPIENT also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance.

**C. Lobbying - 31 U.S.C. § 1352 et seq.**

*(Regarding each bid or offer exceeding \$100,000)*

1. In signing the proposal form above the proposer certifies, to the best of his or her knowledge and belief, that:
2. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering

into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and federal contract, grant, loan, or cooperative agreement.

3. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). [Note: Language in paragraph (b) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995. (P.L. 104-65, to be codified at 2 U.S.C. § 1601 *et seq.*)]
4. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
5. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

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**D. Access to Records and Reports - 49 U.S.C. § 5325**

1. The SUBRECIPIENT agrees to provide COG, and if applicable the state or federal funding agency, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the SUBRECIPIENT which are directly pertinent to

this Contract for the purposes of making audits, examinations, excerpts and transactions.

2. The SUBRECIPIENT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The SUBRECIPIENT agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the SUBRECIPIENT agrees to maintain same until COG, the applicable state or federal funding agency, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

**E. Funding Agency Changes**

The SUBRECIPIENT shall at all times comply with all applicable state and federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the funding agreement between such agency and COG, as they may be amended or promulgated from time to time during the term of this Contract. SUBRECIPIENT failure to comply shall constitute a material breach of this Contract.

**F. Clean Air - 42 U.S.C. § 7401 *et seq.***

1. The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.
2. The SUBRECIPIENT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* The SUBRECIPIENT agrees to report each violation to COG and understands and agrees that COG will, in turn, report each violation as required to assure notification to the funding federal agency, if any, and the appropriate EPA regional office.
3. The SUBRECIPIENT also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance.

**G. Recycled Products - 42 U.S.C. § 6962**

1. The Recycled Products requirements apply to all contracts for items designated by the EPA, when COG or the SUBRECIPIENT procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using federal funds.
2. The SUBRECIPIENT agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

**H. No Government Obligation to Third Parties**

1. The SUBRECIPIENT acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities of COG, the SUBRECIPIENT, or any other person (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The SUBRECIPIENT agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the SUBRECIPIENT that will be subject to its provisions.

**I. Program Fraud and False or Fraudulent Statements and Related Acts - 31 U.S.C. § 3801 *et seq.***

1. The SUBRECIPIENT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and all appropriate federal agency regulations apply to its actions pertaining to this PROJECT. Upon execution of the underlying contract, the SUBRECIPIENT certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract of the federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBRECIPIENT further acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves

the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBRECIPIENT or to the extent the Federal Government deems appropriate.

2. The SUBRECIPIENT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(N)(1) on the SUBRECIPIENT, to the extent the Federal Government deems appropriate.
3. The SUBRECIPIENT agrees to include the above two clauses in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the SUBRECIPIENT who will be subject to the provisions.

**J. Insurance Requirements**

1. For its activities and operations, Contractor shall have already in place, and at all times keep in effect all below required coverages.
2. Commercial General Liability Insurance in the amounts listed below. The insurance shall include coverage for personal injury and claims of discrimination and civil rights violations. All such insurance shall name COG as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with COG before any services are rendered. Contractor shall maintain coverage in the amounts of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$500,000 for property damage. Coverage shall be written on an occurrence form (Acord Form).
3. Contractor shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract. Contractor's automobile insurance shall include coverage for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the performance of this Contract. All such insurance shall name COG and/or its individual members, their employees, and agents as ADDITIONAL INSURED.
4. Contractor shall, provide COG with certification of Workers' Compensation Insurance, with employer's liability at least the minimum amount required by the governing jurisdiction's law, in effect for each year of this Contract.

5. Contractor shall obtain and maintain at all times during the prosecution of the work under this Agreement professional liability insurance. Limits of liability shall be \$1,000,000 per claim and \$2,000,000.00 aggregate.
  6. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory Cyber Liability Insurance, with limits not less than \$500,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor under this grant and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to COG.
  7. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to COG, and members involved in the contract, shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
  8. When insurance coverage is renewed, Contractor shall provide new certificates of insurance to all contracting agencies and COG prior to expiration of current policies.
- K. Termination - 49 U.S.C. Part 18**

Applicable to all contracts in excess of \$10,000

1. Termination for Convenience

COG, by written notice, may terminate this Contract, in whole or in part, at any time by written notice to the SUBRECIPIENT when it is in COG's best interest. If this Contract is terminated, COG shall be liable only for payment under the payment provisions of this Contract for services rendered before the effective date of termination.

2. Termination for Default [Breach or Cause]

If the SUBRECIPIENT fails to perform in the manner called for in this Contract, or if the SUBRECIPIENT fails to comply with any other provisions of the Contract, COG may terminate this Contract for default. Termination shall be effected by serving a notice of termination on the SUBRECIPIENT setting forth the manner in which the Contract is in default. The SUBRECIPIENT will only be paid the contract price for services performed in accordance with the manner of performance set forth in the Contract.

If it is later determined by COG that the SUBRECIPIENT had an excusable reason for not performing, such as strike, fire, or flood, events which are beyond the control of the SUBRECIPIENT, COG, after setting up a new delivery of performance schedule, may allow the SUBRECIPIENT to continue work, or treat the termination as a termination for convenience.

3. COG in its sole discretion may, in the case of termination for breach or default, allow the SUBRECIPIENT ten (10) working days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the SUBRECIPIENT fails to remedy to COG's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the ten (10) working days after receipt by the SUBRECIPIENT of written notice from COG setting forth the nature of said breach or default, COG shall have the right to terminate the Contract without further obligation to the SUBRECIPIENT. Any such termination for default shall not in any way operate to preclude COG from also pursuing all available remedies against the SUBRECIPIENT and its sureties for said breach or default.

4. In the event COG elects to waive its remedies for any breach by the SUBRECIPIENT of any covenant, term or condition of this Contract, such waiver by COG shall not limit COG's remedies for any succeeding breach of that or any other term, covenant, or condition of this Contract.

- L. **Civil Rights Requirements** - 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332

- A. Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of federal law, the SUBRECIPIENT agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the SUBRECIPIENT agrees to comply with applicable federal implementing regulations. The clauses of Appendix A and E of the U.S. DOT Standard Title VI Assurances (USDOT 1050.2A) are incorporated herein by reference.

- B. **Equal Employment Opportunity**. The following equal employment opportunity requirements apply to the underlying contract:

1. Race, Color, Creed, National Origin, Sex



In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the SUBRECIPIENT agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect activities undertaken in the course of this PROJECT. The SUBRECIPIENT agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the SUBRECIPIENT agrees to comply with apprenticeship. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements the funding federal agency may issue.

2. Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and other applicable law, the SUBRECIPIENT agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements the funding federal agency may issue.

3. Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the SUBRECIPIENT agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements the funding federal agency may issue.

- C. The SUBRECIPIENT also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance, modified only if necessary, to identify the affected parties.

**M. Breaches and Dispute Resolution.**

1. Disputes

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the COG Executive Director or his/her designee. This decision shall be final and conclusive, unless within ten (10) working days from the date of receipt of its copy, the SUBRECIPIENT mails or otherwise furnishes a written appeal to the Executive Director or his/her designee. In connection with any such appeal, the SUBRECIPIENT shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director or his/her designee shall be binding upon the SUBRECIPIENT, and the SUBRECIPIENT shall abide by the decision.

2. Performance During Dispute

Unless otherwise directed by COG, the SUBRECIPIENT shall continue performance under this Contract while matters in dispute are being resolved.

3. Claim for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

4. Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between COG and the SUBRECIPIENT arising out of or relating to this agreement or its breach may be submitted by the parties for arbitration if the parties mutually agree, otherwise, such claims, counterclaims, disputes and other matters shall be decided by a court of competent jurisdiction within the District of Columbia.

5. Rights and Remedies

The duties and obligations imposed by the Contract and the rights and remedies available there under shall be in addition to and not a limitation

of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by COG or the SUBRECIPIENT shall constitute a waiver or any right or duty afforded to them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

**N. Patent, Rights in Data and Proprietary Information.**

**1. Rights in Data**

The following requirements apply to each contract involving experimental, developmental or research work:

- a. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; CDs or flash drives (thumbdrives) containing data; and any other information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
- b. The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:
  - i. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections M.2.a and M.2.b of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its federal license to any other party.

- (1) Any subject data developed under that contract, whether or not a copyright has been obtained; and

- (2) Any rights of copyright purchased by the Purchaser or the SUBRECIPIENT using federal assistance.

2. Patent Rights

The following requirements apply to each contract involving experimental, developmental, or research work:

- a. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and the SUBRECIPIENT agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the federal funding agency is ultimately notified.
- b. Unless the Federal Government later makes a contrary determination in writing, irrespective of the SUBRECIPIENT status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the SUBRECIPIENT agree to take the necessary actions to provide, through the federal funding agency, those rights in that invention due the Federal Government as described in the U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
- c. The SUBRECIPIENT also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.

3. Proprietary Information

- a. All materials provided in solicitation responses and contracts that are proprietary should be marked as such.
- b. COG accepts no responsibility for the release of any information submitted that is not marked as proprietary or confidential.

**O. Interest of Members of Congress**

No member of, or delegates to, the Congress of the United States shall be

admitted to a share or part of this Contract or to any benefit arising there from.

**P. Interest of Employees of COG**

No employee of COG who exercises any functions or responsibilities in review or approval of the undertaking or carrying out the PROJECT during his or her tenure or one (1) year thereafter, shall have any personal interest, direct or indirect, apart from his or her official duties, in this Contract or the proceeds thereof.

**Q. Interest of the SUBRECIPIENT**

The SUBRECIPIENT covenants that it has presently no financial interest, shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The SUBRECIPIENT further covenants that, in the performance of this Contract, no person having any such interest shall be employed.

**R. Payment**

Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after COG's receipt of a proper invoice from the Contractor and shall be made electronically.

1. **Electronic Payment** means the payment of money to a vendor by electronic means, including by means of a Purchase Card (P-card) or Automated Clearing House (ACH) funds transfer method. The vendor may choose the form of payment that best suits them.
2. COG has implemented a P-Card Program utilizing MASTERCARD networks. Purchases from this contract can be made utilizing COG's P-Card.
3. Contractors will receive payment from the P-Card in the same manner as other credit card purchases. The payments typically are transferred within 48 hours.
4. COG can also accept ACH transactions. This method will be acceptable as a form of payment to our vendors. Please keep in mind the turn-around time on ACH transactions can be as long as 30 days.

NOTE: Vendor must accept either P-card or ACH payments. COG will not issue checks for payments under this contract.

**S. Allowable Costs**

Only those costs which are consistent with Title 2 Part 200 of the Code of Federal Regulations shall be reimbursed under this Contract.

**T. Covenant Against Contingent Fees**

The SUBRECIPIENT warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of warranty shall give the Contracts Officer the right to terminate this Contract or, in his discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by the SUBRECIPIENT upon contracts or sales secured or made through a bona fide established commercial or selling agency maintained by the SUBRECIPIENT for the purpose of securing business.

**U. Indemnification**

The SUBRECIPIENT, acting as an independent SUBRECIPIENT, shall hold COG harmless from and shall be solely responsible, where found liable, for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act of omission or negligence of its employees or agents in connection with the performance of this work.

**V. Severability**

It is understood and agreed by the parties that if any of these provisions shall contravene, or be invalid under, the laws of the particular state, county or jurisdiction where used, such contravention or invalidity shall not invalidate the whole agreement, but the Contract shall be construed as of not containing the particular provision or provisions held to be invalid in the said particular state, county or jurisdiction and the rights and obligations of the parties shall be construed and enforced accordingly.

**W. Assignments**

This Contract shall not be assigned, sublet or transferred in whole or in part by the SUBRECIPIENT, except with the previous written consent of the COG Contracting Officer or his designee.

**X. Entire Agreement**

This Contract sets forth the entire understanding of the parties and supersedes all previous agreements, whether oral or in writing, relating to the subject matter hereof. This Contract may only be altered, amended or modified in accordance with Changes Clause of this Contract.

**Y. Confidential or Personal Data**

COG respects the privacy or business interests involved in confidential or personal data. It is COG's policy to obtain confidential or personal data or store or allow storage of such data only -

1. When necessary to fulfill COG's information-gathering and data collection responsibilities
2. In conjunction with COG projects. COG intends to minimize risk of disclosure of such confidential or personal data.
3. Whenever feasible and the requirements of a project allow, the names of survey participants or users of a website or other data collection method shall not be accepted, recorded, stored or retained.
4. When COG engages in a project, which involves the collection or storage of confidential or personal information by or through use of surveys, websites or by other data collection, the following conditions shall be met:
  - a. The survey, website or other collection method shall contain a set of conditions for use and a disclaimer of any COG liability for use, in language approved by COG in writing.
  - b. The party(ies) working with COG shall demonstrate adherence to a federal or applicable state standard for protecting confidential or personal information.
  - c. The confidential or personal information collected or stored by or through the survey, website or other data collection shall be kept confidential. All necessary steps shall be taken to protect the privacy of the users of the website or other data collection. Any confidential or personal information provided by users of the website or other data collection, including but not limited to their names and addresses, shall be protected.
  - d. COG shall retain control over and ownership of all surveys, web pages, control files and scripts, database schema, and database contents, in addition to all content which is published on or stored by the website or other data collection, unless COG specifically agrees in writing otherwise.
  - e. No release of any announcements intended for public dissemination concerning the collection or storage of such information by or through

the survey, website or other data collection shall occur until COG has given prior written authorization, unless COG specifically agrees in writing otherwise.

- f. In the event that information collected or stored by or through the survey, website or other data collection shall be stolen or handled incorrectly, the party(ies) working with COG on the PROJECT shall be responsible for any required notification to persons who have entered personal information in that system and all costs related thereto.
- g. The PROJECT documents shall provide that other parties working with COG on the survey, website or other data collection or storage shall indemnify COG with at least the following commitment:

The [SUBRECIPIENT or other party] shall indemnify and hold COG harmless from and shall be solely responsible, for the payment of any and all claims for loss, personal injury, death, property damage, infringement or misappropriation of any third party's intellectual property rights, violation of privacy, confidentiality or otherwise, arising out of any act of omission or negligence of its employees or agents in connection with the performance of the work under this [agreement or memorandum of understanding].

- h. At the end of the project or contract, any personal or confidential information shall be given to COG or destroyed, and a certification of destruction provided to COG by the SUBRECIPIENT or other party.

## **Z. COG's Policies and Procedures**

When federal law, or any grant conditions, certifications or assurances require COG to utilize competitive procurement procedures for selection of a SUBRECIPIENT, COG's policies and procedures shall govern every aspect of the SUBRECIPIENT selection process, e.g., the solicitation, evaluation, award, and post-award process (including, without limitation, any protest of an award, and the terms and conditions under which a contract may be approved, executed and administered). Any SUBRECIPIENT and potential SUBRECIPIENT will be provided with a copy of such policies and procedures, on request.

### **AA. COG's Information Technology Policy**

Contractors that must access COG's Information Technology systems or require a COG login account to perform their duties must adhere to COG's Information Technology Policies and Procedures. Such contractors will



receive a copy of the policies and procedures prior to receiving access to COG's IT systems.

#### **BB. COG's Facilities, Policies, and Procedures**

Contractors that must use any of COG's facilities or equipment must adhere to COG's Facilities, Policies and Procedures. Contractors that utilize any AV or IT equipment through the use of COG's facilities shall also comply with COG's IT Policy. Such contractors will receive a copy of all relevant procedures prior to receiving access to COG's IT systems.

#### **CC. Additional Requirements**

In addition to the terms and conditions expressly referenced in this Contract, the SUBRECIPIENT acknowledges and agrees that the terms and conditions of any federal or state grant that provides funding for this Contract, in whole or in part, shall apply to and shall govern the parties' rights and obligations under this Contract and shall be deemed additional terms, conditions and requirements of this Contract.

#### **DD. DBE Assurance**

The SUBRECIPIENT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The SUBRECIPIENT shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of USDOT-assisted contracts. Failure by the SUBRECIPIENT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the COG deems appropriate.

#### **EE. Audits**

Per the Enhanced Mobility Circular, COG as the Designated Recipient for Enhanced Mobility funds will collect A-133 audit reports from the SUBRECIPIENT receiving more than \$750,000 in federal funds. At a minimum, the SUBRECIPIENT is required to bring to COGTPB's attention any audit findings relevant to its use of FTA funds. The SUBRECIPIENT is not subject to A-133 audit requirements and may require additional monitoring, in a format elected by COG, to ensure compliance.

#### **FF. FFATA Reporting**

1. The Federal Funding Accountability and Transparency Act ("FFATA") requires prime recipients of federal grants and contracts to report sub-award and executive compensation data. COG is the prime recipient of federal awards for the purposes of this policy and is responsible for reporting sub-award data.

2. COG and first-tier sub-awardees are required to maintain current registration in the System for Awards Management ("SAM") as well as obtain a DUNS number. COG is responsible for filing the report in the FSRS system, not sub-awardees. However, sub-award recipients must provide the following information to COG before they will be eligible to receive the sub-award:
  - a. The entity's information
  - b. Description and/or title of the sub-award (including NAICS code or CFDA number)
  - c. Date and amount of award
  - d. Location of the entity receiving the award and the primary location of performance under the award, including the city, state, congressional district, and country
  - e. Active and current SAM unique identifier
  - f. DUNS number
  - g. Names and total compensation of the five (5) highest paid officers/executives of the sub-recipient if all three criteria are met:
    - a) Federal awards make up 80% or more of the SUBRECIPIENT's annual gross revenues
    - b) The SUBRECIPIENT's annual gross revenue from federal awards is \$25 million or more
    - c) The SUBRECIPIENT's officer names are not publicly available and the public does not have access to data on executive compensation of the entity through the Securities and Exchange Commission (SEC) as described in further detail in OMB Guidance on Sub-award and Executive Compensation Reporting (August 27, 2010)

(COG, as the prime recipient of the federal award, must also report its own executive compensation data by the end of the month following the award if the same criterion noted above is met.)

#### **GG. Priority of Requirements**

In the event of a conflict between or among any of the terms, conditions and requirements applicable to this Contract, the conflict shall be resolved by

giving weight in accordance with the following priorities, in the order as stated below:

1. Terms and conditions of any grant that provides funding for this Contract, in whole or in part;
2. Terms and conditions set forth or referenced within this Contract;
3. Terms and conditions and representations set forth or referenced within Attachments A and F to this Contract;
4. Terms, conditions, specifications, and requirements set forth within any solicitation (e.g., RFP or IFB) pursuant to which this Contract was awarded;
5. Offers, representations, promises, terms and conditions set forth with the bid or proposal submitted in response to any solicitation (e.g., RFP or IFB) pursuant to which this Contract was awarded.

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**ATTACHMENT B OFFEROR DEBARMENT FORM**

**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS**

The prospective vendor certifies to the best of its knowledge and belief that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any department or agency of the District of Columbia, State of Maryland or the Commonwealth of Virginia or any of the 24 jurisdictions comprising the membership of the Metropolitan Washington Council of Governments (COG);
- Have not within a three year period preceding this date been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated above of this certification; and
- Have not within a three-year period preceding this date had one or more public transactions (Federal, State or local) terminated for cause or default.

Vendor understands that a false statement on this certification may be grounds for rejection of any submitted proposal or quotation or termination of any award. In addition, under 18 U.S.C. § 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both if federal funds are being used to support the procurement.

---

Typed Name of Vendor

---

Typed Name & Title of Authorized Representative

---

Signature of Authorized Representative

Date

**ATTACHMENT C OFFEROR BUSINESS REFERENCES FORM**

CONTRACTOR: \_\_\_\_\_

PROVIDE A MINIMUM OF THREE (3) REFERENCES FROM CUSTOMERS THAT ARE CAPABLE OF DISCUSSING YOUR COMPANY'S ABILITY TO PERFORM CONTRACTS OF COMPARABLE SIZE AND SCOPE. It is imperative that accurate contact names and phone numbers be given for the projects listed. All references should include a contact person who can comment on the company's ability to perform the services required under this contract. The company should insure that telephone numbers and contact names given are up-to-date and accurate.

Reference Number 1

1. Name of Client Organization: \_\_\_\_\_
2. Name and Title of Point of Contact (POC) for Client Organization: \_\_\_\_\_  
\_\_\_\_\_
3. Phone Number of POC: \_\_\_\_\_
4. Approximate Value of Contract: \_\_\_\_\_
5. Duration of Contract: \_\_\_\_\_
6. Description of Services Provided: \_\_\_\_\_  
\_\_\_\_\_

Reference Number 2

1. Name of Client Organization: \_\_\_\_\_
2. Name and Title of Point of Contact (POC) for Client Organization: \_\_\_\_\_  
\_\_\_\_\_
3. Phone Number of POC: \_\_\_\_\_
4. Approximate Value of Contract: \_\_\_\_\_
5. Duration of Contract: \_\_\_\_\_
6. Description of Services Provided: \_\_\_\_\_  
\_\_\_\_\_

REFERENCES cont'd

Reference Number 3

1. Name of Client Organization: \_\_\_\_\_
2. Name and Title of Point of Contact (POC) for Client Organization: \_\_\_\_\_  
\_\_\_\_\_
3. Phone Number of POC: \_\_\_\_\_
4. Approximate Value of Contract: \_\_\_\_\_
5. Duration of Contract: \_\_\_\_\_
6. Description of Services Provided: \_\_\_\_\_  
\_\_\_\_\_

Reference Number 4

1. Name of Client Organization: \_\_\_\_\_
2. Name and Title of Point of Contact (POC) for Client Organization: \_\_\_\_\_  
\_\_\_\_\_
3. Phone Number of POC: \_\_\_\_\_
4. Approximate Value of Contract: \_\_\_\_\_
5. Duration of Contract: \_\_\_\_\_
6. Description of Services Provided: \_\_\_\_\_  
\_\_\_\_\_

Reference Number 5

1. Name of Client Organization: \_\_\_\_\_
2. Name and Title of Point of Contact (POC) for Client Organization: \_\_\_\_\_  
\_\_\_\_\_
3. Phone Number of POC: \_\_\_\_\_
4. Approximate Value of Contract: \_\_\_\_\_

5. Duration of Contract: \_\_\_\_\_

6. Description of Services Provided: \_\_\_\_\_

**Exhibit A**  
**DBE Plan Goals Submission**  
**Solicitation Number \_\_\_\_\_**

|   |   |  |
|---|---|--|
| <b>PROPOSER</b>   | Name: _____   |  |
| <b>Total Proposed Budget</b>  | Value:\$ _____  |  |
| <b>DBE Plan</b>   | Yes _____ No _____  |  |
| <b>Check if Prime Contractor is a DBE _____ . Certification Form Must Be Attached to this form.</b> | Certification # _____   | Expiration Date: _____   |
| <b>DBE Certification</b>  | State: _____  | Certification Type: DBE (must be DBE) No other are accepted                          |
|   | Certifying Agency: _____  |  |
| <b>DBE SUBCONTRACTOR 1</b>  |   |  |
|   | Name: _____   |  |
| <b>Street Address</b>   |   | Tax ID #: _____  |
| <b>City, State, Zip</b>   |   | Website: _____   |
|   |   |  |
| <b>POINT OF CONTACT</b>   | Name: _____   | Title: _____   |
|   | Email: _____  | Telephone: _____   |
| <b>Subcontract Value</b>  | Cost \$ _____   | Percentage of total _____%   |
| <b>DBE Category (Check Applicable)</b><br>Male _____ Female _____                                   | Black American _____ Hispanic American _____<br>Native American _____ | Asian-Pacific American _____ Non-Minority _____<br>Subcontinent Asian American _____ |
| <b>DBE Certification</b>  | State: _____  | Certification Type: DBE (must be DBE) No other are accepted                          |
|   | Certifying Agency: _____  |  |
| <b>Certification Form Must Be Attached to this form</b>   | Certification # _____   | Expiration Date: _____   |
| <i>Copy for additional DBE subcontractors</i>   |   |  |
| <b>DBE SUBCONTRACTOR 2</b>  |   |  |
|   | Name: _____   |  |
| <b>Street Address</b>   |   | Tax ID #: _____  |
| <b>City, State, Zip</b>   |   | Website: _____   |
|   |   |  |
| <b>POINT OF CONTACT</b>   | Name: _____   | Title: _____   |
|   | Email: _____  | Telephone: _____   |
| <b>Subcontract Value</b>  | Cost \$ _____   | Percentage of total _____%   |
| <b>DBE Category (Check Applicable)</b><br>Male _____ Female _____                                   | Black American _____ Hispanic American _____<br>Native American _____ | Asian-Pacific American _____ Non-Minority _____<br>Subcontinent Asian American _____ |
| <b>DBE Certification</b>  | State: _____  | Certification Type: DBE (must be DBE) No other are accepted                          |



|  |   |  |
|--|---|--|
|  | Certifying Agency: _____  |  |
| Certification Form Must Be Attached to this form           | Certification # _____   | Expiration Date: _____   |
| <i>Copy for additional DBE subcontractors</i>              |   |  |
| <b>DBE SUBCONTRACTOR 3</b>                                 | Name: _____   |  |
| Street Address   |   | Tax ID #: _____  |
| City, State, Zip   |   | Website: _____   |
| <b>POINT OF CONTACT</b>                                    | Name: _____   | Title: _____   |
|  | Email: _____  | Telephone: _____   |
| Subcontract Value  | Cost \$ _____   | Percentage of total _____%   |
| DBE Category (Check Applicable)<br>Male _____ Female _____ | Black American ___ Hispanic American ___<br>Native American _____ | Asian-Pacific American ___ Non-Minority ___<br>Subcontinent Asian American _____ |
| DBE Certification  | State: _____  | <b>Certification Type: DBE (must be DBE) No other are accepted</b>               |
|  | Certifying Agency: _____  |  |
| Certification Form Must Be Attached to this form           | Certification # _____   | Expiration Date: _____   |
| <i>Copy for additional DBE subcontractors</i>              |   |  |
| <b>DBE SUBCONTRACTOR 4</b>                                 | Name: _____   |  |
| Street Address   |   | Tax ID #: _____  |
| City, State, Zip   |   | Website: _____   |
| <b>POINT OF CONTACT</b>                                    | Name: _____   | Title: _____   |
|  | Email: _____  | Telephone: _____   |
| Subcontract Value  | Cost \$ _____   | Percentage of total _____%   |
| DBE Category (Check Applicable)<br>Male _____ Female _____ | Black American ___ Hispanic American ___<br>Native American _____ | Asian-Pacific American ___ Non-Minority ___<br>Subcontinent Asian American _____ |
| DBE Certification  | State: _____  | <b>Certification Type: DBE (must be DBE) No other are accepted</b>               |
|  | Certifying Agency: _____  |  |
| Certification Form Must Be Attached to this form           | Certification # _____   | Expiration Date: _____   |
| <i>Copy for additional DBE subcontractors</i>              |   |  |

## ATTACHMENT E RIDER FORM SAMPLE

### COG Cooperative Rider Clause

The COG Cooperative Purchasing Program works to aggregate the public entity and non-profit purchasing volumes in the National-Capital region of Maryland, Virginia and Washington, D.C.

#### I. Format

COG serves as the Lead Agency of this procurement and has included this Cooperative Rider Clause indicating its willingness to allow other public entities to participate in this procurement ("Participating Agency") pursuant to the following Terms and Conditions:

#### II. Terms

- A. A Participating Agency, through their use of this Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the Participating Agency.
- B. A Participating Agency may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.

#### III. Other Conditions - Contract and Reporting

- A. The resulting contract shall be governed by and "construed" in accordance with the laws of the State/jurisdiction in which the Participating Agency is officially located.
- B. Contract obligations rest solely with the Participating Agency only.
- C. Contractor must provide semi-annual contract usage reporting information to COG, including but not limited to quantity, unit pricing and total volume of sales by entity on demand and without further approval of Participating Agency;

Semi-annual reporting Due Dates beginning from Contract execution:

- November 30, covering May 1 – October 31
  - May 31, covering November 1 – April 30
- D. Contractor is required to report any Participating Agency that is added to the contract and a **COG Rider Clause Approval Form** must be filled out by the Participating Agency and approved by COG (see form below).
  - E. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and any Participating Agency.
  - F. Although Participating Members (see next page) are the priority of this rider clause, organizations not on this list are permitted to use this clause by mutual agreement and approval by COG.

## II. Participating Members

### COG Member Governments

- **District of Columbia**

- **Maryland**

- Town of Bladensburg
- City of Bowie
- City of College Park
- Charles County
- City of Frederick
- Frederick County
- City of Gaithersburg
- City of Greenbelt
- City of Hyattsville
- City of Laurel
- Montgomery County
- Prince George's County
- City of Rockville
- City of Takoma Park

- **Virginia**

- City of Alexandria
- Arlington County
- City of Fairfax
- Fairfax County
- City of Falls Church
- Loudoun County
- City of Manassas
- City of Manassas Park
- Prince William County

- **Other Local Governments**

- Town of Herndon
- Spotsylvania County
- Stafford County
- Town of Vienna

- **Public Authorities/Agencies**

- Alexandria Renew Enterprises
- District of Columbia Water and Sewer Authority
- Metropolitan Washington Airports Authority
- Montgomery County Housing Opportunities Commission
- Potomac & Rappahannock Transportation Commission/ Omni Ride
- Prince William County Service Authority

- Upper Occoquan Service Authority
- Washington Metropolitan Area Transit Authority
- Washington Suburban Sanitary Commission

- **School Systems**

- Alexandria Public Schools
- Arlington County Public Schools
- Charles County Public Schools
- District of Columbia Public Schools
- Frederick County Public Schools
- Loudoun County Public Schools
- City of Manassas Public Schools
- Montgomery College
- Montgomery County Public Schools
- Prince George's County Public Schools
- Prince William County Public Schools
- Spotsylvania County Schools
- Winchester Public Schools

- **State Agencies**

- Maryland-National Capital Park and Planning Commission
- 

### BALTIMORE METROPOLITAN COUNCIL

- City of Annapolis
- Anne Arundel County
- Anne Arundel County Public Schools
- Anne Arundel Community College
- City of Baltimore
- Baltimore City Public Schools
- Baltimore County
- Baltimore County Public Schools
- Community College of Baltimore County
- Carroll County
- Harford County
- Harford County Public Schools
- Harford Community College
- Howard County
- Howard County Public Schools System
- Howard Community College
- Queen Anne's County
- Queen Anne's County Public Schools

**COG Rider Clause  
Approval Form**  
**Sample only – Do Not Fill Out**

This form must be executed for any Participating Agency, both within and outside of the Metropolitan Washington Council of Governments (COG) region, to use the COG Cooperative Rider Clause to ride solicitations and contracts.

-----

Participating Agency Name \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_ Email Address \_\_\_\_\_

-----

Solicitation/Contract Information:

Name Solicitation/Contract \_\_\_\_\_

Lead Agency/Contract Holder \_\_\_\_\_

Contact Person \_\_\_\_\_

Solicitation/Contract Number \_\_\_\_\_ Other Reference \_\_\_\_\_

-----

Vendor Information:

Contractor Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_ Email Address \_\_\_\_\_

*See questions on next page.*

**Sample only – Do Not Fill Out**

| <b><u>Questions</u></b> –   | <b><u>YES</u></b> | <b><u>NO</u></b> |
|---|-------------------|------------------|
| 1. Is the Contract active and currently in force?   | _____             | _____            |
| 2. Is the Participating Agency’s specifications/scope of work the same or very similar to that in the Contract?   | _____             | _____            |
| 3. Is riding this Contract within the rules and regulations of the Participating Agency and approved by the Participating Agency’s Purchasing Department? | _____             | _____            |

**Participating Entity**

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

**Metropolitan Washington  
Council of Governments**

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_