

## ATTACHMENT B

### GENERAL TERMS AND CONDITIONS – PRINCE GEORGE’S COUNTY GOVERNMENT

The following standard General Terms and Conditions of contract shall apply and shall be incorporated by reference in the contract documents.

1. **AVAILABILITY OF FUNDS:** A contract shall be deemed executory only to the extent of the appropriations available to each agency for the purchase of such commodities or services. The County’s extended obligation of those contracts which envision extended funding through successive fiscal periods shall be contingent upon actual appropriations for the following fiscal year. The County shall notify the Contractor as soon as it obtains knowledge that funds may not be available for continuance of the contract for each succeeding fiscal year beyond the first year.
2. **PREVAILING LAW:** The Request for Proposals and any resulting contract shall be governed by the laws of Prince George’s County and the State of Maryland. By submitting a Proposal in response to this Request for Proposals, the Offeror, if selected for award, agrees that it will comply with all Federal, State, and local laws applicable to its activities and obligations under the Contract.
3. **CONTINGENCY FEE PROHIBITION:** The Contractor hereby represents that they have not retained anyone to solicit or secure this contract from the County upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees of bona fide established commercial selling agencies maintained by the person so representing for the purpose of securing business, or any attorney rendering professional legal service consistent with applicable canons of ethics.
4. **COUNTY HELD HARMLESS:** It is agreed that the Contractor shall be responsible for any loss, personal injury, deaths and/or damages that may be done or suffered by any persons solely by reasons of the Contractor’s negligence or failure to perform any of the obligations which this contract obligates them to perform, and the Contractor hereby agrees to indemnify defend and hold the County harmless from any loss, cost damages, and other expenses suffered or incurred by the County solely by reason of the Contractor’s negligence or failure to perform any of the said obligations. The Contractor shall take proper safety and health precautions to protect their work, their employees, the public and the property of others from any damages or injury resulting solely from the performance of their work described herein.
5. **MARYLAND STATE DISCLOSURE:** The Contractor shall comply with the provisions of Article 33, Sections 14-101 through 14-104 of the Annotated Code of Maryland, entitled “Disclosure By Persons Doing Public Business” which requires that every person that enters into contracts, leases, or other agreements with the County, including its agencies, or a political subdivision of the State, under which the person receives in the aggregate either during the two years preceding or after the completion of said contract, lease or agreement, \$100,000 or more, shall file with the State Board certain specified information to include disclosure of political contributions in excess of \$500 to a candidate for elective office.
6. **PROMPT PAYMENT:**
  - (a) Pursuant to provisions of Section 10A-153 of the County Code, the County shall pay interest in the event that payment against “proper” invoices is not made as prescribed in accordance with said section.
  - (b) The Contractor shall pay each of its subcontractors (including a material supplier) for satisfactory performance under the respective subcontract within seven (7) calendar days after receipt of such amounts that are paid to Contractor by the County for such work performed under the contract. In the event that there is a good faith dispute over all or any portion of the amount due on a payment from Contractor to a subcontractor, Contractor may withhold the disputed amount but shall pay the undisputed amount. A subcontractor who further subcontracts work on procurement projects is responsible for the same requirements and interest penalties for payment to its subcontractors (lower tier subcontractors) after receiving payment as applicable to Contractor.
  - (c) Interest penalties. In the event Contractor violates Paragraph (b), above, Contractor shall pay to the subcontractor a penalty of one and a half percent (1.5%) of the amount due per month for every month (or such other percentage as identified in County Code Section 10A-153) to the subcontractor owed payment or portion thereof that payment is not made. Interest penalties shall accrue daily beginning eight (8) calendar days after payment is received by the Contractor (or higher tier subcontractor) and ending on, but excluding, the payment date, using the rate established in this paragraph calculated on a monthly (30-day) basis. This requirement is enforceable in the Circuit Court of Prince George’s County, and is not intended to create a private right of action against the County. Willful violations of this requirement may also result in Contractor (or higher tier subcontractor) being suspended or debarred.
  - (d) Subcontract Clause Requirements. Contractor shall include in each of its subcontracts:
    - (1) a payment clause which obligates Contractor to pay the subcontractor for satisfactory performance under its subcontract within seven (7) days out of such amounts as are paid to Contractor by the County for such work performed under such contract; and
    - (2) an interest penalty clause which obligates Contractor to pay to the subcontractor an interest penalty on amounts due (or such other percentage as identified in County Code Section 10A-153) in the case of each payment not made in accordance with the payment clause included in the subcontract (i) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and (ii) computed at a rate of one and a half percent (1.5%) (or such other percentage as identified in County Code Section 10A-153) of the amount due per month for every month.
  - (3) a clause requiring the subcontractor to (i) include a payment clause and an interest penalty of one and a half percent (1.5%) of the amount due per month for every month (or such other percentage as identified in County Code Section 10A-153) in each of its subcontracts and (ii) shall require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

7. **CONTRACT DISPUTE RESOLUTION:** All claims and disputes arising under the Contract shall be administered by the Contract Administrator and handled in accordance with Sections 10A-104 and 10A-107 of the County Code.
8. **TERMINATION FOR DEFAULT:** If the Contractor fails to fulfill its obligations under this Contract properly and on time or otherwise violates any provision of the Contract, the County may terminate the Contract by written notice to the Contractor. The written notice shall specify the acts or omissions relied on as cause for termination. All furnished services provided by the Contractor shall at the County's option become the County's property. The County shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages or deduct from monies due the Contractor on this or other County Contracts. Damages may include excess re-procurement costs.
9. **TERMINATION FOR CONVENIENCE:** The performance of work under the Contract may be terminated by the County with 30 calendar days advance written notice, or such time as mutually agreeable to the parties not to exceed 30 calendar days, in accordance with this clause in whole, or from time-to-time in part, whenever the Purchasing Agent shall determine that such termination is in the best interest of the County. The County will compensate Contractor for all monies earned up to the date of termination. However, the Contractor shall not be paid any damages or reimbursed for any anticipatory profits that have not been earned up to the date of termination.
10. **OSHA REGULATIONS, BLOODBORNE PATHOGENS:** The successful Contractor shall, during the course of performance under the proposed Contract, comply with Part 1910 of Title 29 of the Code of Federal Regulations (OSHA). This regulation deals with occupational exposures to blood borne pathogens and other potentially infectious materials. During the performance of this Contract, the Contractor is expected to be alert to any potentially high risk of exposure opportunities and take all mandated precautionary measures contained in the regulation, including making available Hepatitis B vaccine and vaccination series to all employees who have occupational exposure and post-exposure follow-up following exposure incidents.
11. **ASSIGNMENT OF CONTRACT:** All covenants and agreements herein contained shall extend and be obligatory on any successor and assigns of the Contractor. It is mutually understood and agreed that Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Contract or its right, title or interest herein, or its power to execute such Contract, to any other person, firm or corporation, without the previous written consent of the Purchasing Agent, but in no case shall such consent relieve the Contractor from the obligations, or change the terms, of the Contract.
12. **NON-DISCRIMINATION:** A contractor who is the recipient of County funds, or who proposes to perform any work or furnish any goods under this Contract shall not discriminate against any worker, employee or applicant, or any member of the public because of religion, race, sex, age, physical or mental disability, or perceived disability. Discriminatory practices based upon the foregoing are declared to be contrary to the public policy of the County. Contractor agrees to be in full compliance with the Federal mandates of the Americans with Disabilities Act. Contractor shall incorporate the provisions of this Section 12 in all contracts entered into with suppliers of materials or services; and Contractor's subcontractors and all labor organizations, furnishing skilled, unskilled and craft union skilled labor, or who may perform any such labor services in connection with this Contract. Contractor and subcontractors shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.  
  
Prince George's County Government is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Bidders requesting special accommodations should call the ADA Compliance Manager at (301) 265-8450/ Maryland Relay - 711
13. **EMPLOYMENT OF COUNTY PERSONNEL:** The Contractor may not engage, on a full-time, part-time or other basis, during the period of the Contract, any professional or technical personnel in the employ of Prince George's County.
14. **WELFARE TO WORK INITIATIVE:** The Prince George's County Government actively supports provisions of the Welfare Innovation Act of 1996. Offerors responding to County solicitations are encouraged to hire persons enrolled in the Resource Initiative for Self-Empowerment Program as part of their proposal. Offerors interested in additional information on the welfare to work effort should contact Prince George's County's Department of Social Services/Family Investment Program at (301) 909-6000 for referrals and to complete a job order form for all available positions.
15. **ECONOMIC DEVELOPMENT:** Under authority of the County Executive (Executive Order No. 17-1997), Prince George's County based businesses are encouraged to participate in the County's procurement process. Prince George's County Government is committed to promoting economic development, expanding business opportunities and providing assistance to businesses interested in locating their principal office or base of operations in Prince George's County. A program for business assistance is available through the Economic Development Corporation. Information on the County's contracting process and opportunities may be obtained through the Office of Central Services, Contract Administration and Procurement Division.

16. **SEXUAL HARASSMENT:** Prince George's County Government is committed to providing a work environment that is free from discrimination, insults, intimidation and other forms for harassment. The County prohibits sexual harassment. Sexual harassment may cause others unjustifiable offense, anxiety and injury. Unwelcome sexual advances or requests for sexual favors and other verbal or physical conduct of a sexual nature constitutes sexual harassment. Sexual harassment by Contractor or subcontractor employees is prohibited. Sexual harassment may also constitute violations of criminal and civil laws of the State of Maryland and the United States. Any violation of sexual harassment constitutes a breach of Contract, and thus the Contractor will be required to remove the offender from the job-site.
17. **RELEASE OF INFORMATION:** During the term of the Contract, the Contractor may not release any information related to the services or performance of services under the Contract, nor publish any reports or documents relating to the County, the account, or performance of services under the Contract, without prior written consent of the County; and the Contractor shall indemnify and hold harmless the County, its officers, agents, and employees from all liability which may be incurred by reason of dissemination, publication, distribution, or circulation, in any manner whatsoever, of any information, data, documents, or material pertaining in any way to the County, the account, or the Contract by the Contractor or its agents or employees.
18. **ARREARAGES:** By submitting a response to this solicitation an Offeror shall be deemed to represent that it is not in arrears in the payment of any obligations due and owing the County and State, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract.
19. **TAX EXEMPTIONS:** Prince George's County is exempt from the following taxes: (a) State of Maryland by Certificate No. 3000-124-3; (b) District of Columbia Sales Tax by Exemption No. 9199-79411-01; (c) Manufacturers Federal Excise Tax Registration No. 52710247-K.
20. **CONTRACT ALTERATIONS:** No alterations or variables in the terms of a Contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his authorized agent.
21. **DEFAULT REMEDIES:** The Contract may be canceled or annulled by the Purchasing Agent or his designee in whole or in part by written notice of default to the Contractor for any of the following reasons: failure to perform in accordance with Contract specifications, failure to make timely delivery of supplies or services as stipulated in the solicitation or proposal, violation of any Contract term, suspension or debarment for reasons of civil or criminal indictment or conviction, failure to prosecute the work or any separable part thereof with such diligence as to insure its completion within the time specified in the Contract, or any extension thereof, fraud or misrepresentation on a County Contract, or failure to make timely replacement or correction of rejected articles or services. In the event of partial termination for default, the Contractor shall continue the performance of the Contract to the extent not terminated.

In the event of default by the Contractor, the County may procure similar articles or services in such manner as to facilitate the most expeditious delivery or performance.

The Offeror agrees by virtue of submitting a bid or proposal in response to this solicitation, that the Contractor is obligated to the County for any excess reprourement costs incurred by the County as a result of the Contractor's default. Excess reprourement costs shall be defined as the difference between the

defaulting Contractors Contract price and the price paid by the County for similar goods or services, plus any additional costs incidental by accelerating delivery, and any reasonable administrative expenses incurred by the County in making the reprourement.

The Contractor agrees by submitting a proposal that such excess reprourement costs may be recovered by the County by: 1) deduction of such amount from monies owed the Contractor on this or any other contract(s) the Contractor may have with the County, 2) recourse to the Contractor's surety, 3) direct payment by the Contractor to the County or 4) legal action against the Contractor.

22. **DELINQUENT TAX SETOFFS:** In the event that the Contractor owes money to the County as a result of the entry of judgment, debt arising out of a Contract, default as surety to the County, delinquent taxes or assessments or for any other debt or liquidated damages, the County may withhold and set-off such sums owed to the County from payments owed to the Contractor by virtue of this or other Contracts.
23. **GENERAL GUARANTY:**

Contractor agrees to:

- a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented, invention, article or appliance furnished or used in the performance of the Contract which the Contractor is not the patentee, assignee, licensee or owner.
- b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
- c. Furnish adequate protection against damage to all work and to repair damages of any kind, to the building or equipment, to his own work or to the work of other Contractors, for which he or his workmen is responsible.
- d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County and State of Maryland.

24. **CONFLICT OF INTEREST:** As a prerequisite for the payment pursuant to the terms of this Contract, there shall be furnished to the County a statement, under oath that no member of the elected governing body of Prince George's County, or members of his or her immediate family, including spouse, parents, or children, or any person representing or purporting to represent any member or members of the elected governing body has received or has been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political contribution, or any other similar form of remuneration and/or on account of the acts of awarding and/or executing the Contract and that upon request by the County, as a prerequisite to payment pursuant to the terms of this Contract, there will be furnished to the requester, under oath, answers to any interrogatories related to a possible conflict of interest as herein embodied. Any contract made or entered into where it is discovered that the violation of the intent of this provision exists shall be declared null and void and all monies received by the Contractor shall be returned to the County. Whenever any person shall be convicted of a falsely executing a statement under oath, as required above, such person shall be deemed guilty of a misdemeanor and upon conviction, shall be subject to a fine not exceeding \$1,000 or imprisonment not exceeding six months, or both such fine and imprisonment. The provisions of the "Vendor's Oath and Certification" which is attached hereto apply to any Contract entered into by Prince George's County, Maryland.
25. **VENDOR QUALIFICATION STATEMENT:** Vendors hereunder are advised that prior to the Contract award, a Vendor's Qualification Statement shall be required under the provisions of Section 16-311 of the State Finance and Procurement Article, Annotated Code of Maryland, as pertains to conviction for bribery.
26. **COLLUSIVE BIDDING:** Offeror certifies that his proposal is made without any previous understanding, agreement of connection with any person, firm, or corporation making a bid for the same project without prior knowledge of competitive prices, and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action.
27. **IDENTICAL BIDDING – EXECUTIVE ORDER NO. 10946:** All identical proposals submitted to the County as a result of advertised procurement for materials, supplies, equipment or services exceeding \$1,000 in total amount shall, at the discretion of the County, be reported to the Attorney General of the United States in accordance with Form DJ-1510 and the Presidential Order dated April 24, 1961, for possible violation and enforcement of antitrust laws.
28. **PROTESTS:** Any bidder which alleges that it has been or will be improperly denied the award of bid may protest the decision or potential decision of the County after the receipt and opening of proposals. Any protest shall be in writing and filed in duplicate with the County Purchasing Agent in an envelope marked "PROTEST." The protest shall set forth the identity of the protestor, the identity of the procurement activity, the basis for the protest, including supporting exhibits and documents, which substantiate the protestor's allegations. All protests shall be delivered not later than seven (7) calendar days after the protestor knew or should have known the facts and circumstances upon which the protest is based. Based upon the information contained in the protest, the Purchasing Agent may schedule a hearing or issue a decision based upon the record. If a hearing is granted, it shall be scheduled promptly and a written decision shall be issued as expeditiously as possible. Protests based upon alleged improprieties in any type of solicitation which are apparent before bid opening or the closing date for receipt of proposals shall be delivered before bid opening or closing date for receipt of proposals. Protest not delivered within the time periods specified above shall be untimely.