

HENNEPIN COUNTY
MINNESOTA

Request for Proposal

**for
Election Outreach Services for Safe Voting
Options due to the COVID-19 Pandemic.**

Funded through the Federal CARES Act

Proposal due date: July 20, 2020 at 3:00 p.m.

Closing date for all questions: July 14, 2020 at 4:00 p.m.

Pre-proposal conference: Not Applicable



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1 Introduction

1.1 Project overview

The County of Hennepin, State of Minnesota ("County") is soliciting proposals from qualified **consultants** to provide election outreach to ensure safe-voting options due to the pandemic. The County is taking a proactive step to ensure that citizens have the opportunity and knowledge to vote in a safe and secure method to limit the impact of COVID-19 pandemic. This project is funded through the County's allocation of federal CARES Act funds. The County may award to one or more consultants. Up to \$10,000 is available for these services per contract.

Qualified consultants will:

1. have previously provided non-partisan voter registration, education, and outreach services
2. have current plans to provide non-partisan voter registration, education, and outreach services in the 2020 election.

1.2 Scope of services (Attachment 1)

The Scope of Services is marked as Attachment 1 and incorporated by this reference.

1.3 Proposal format and content (Attachment 2)

When submitting a proposal, Proposers must follow the specific format and contents detailed in Attachment 2. Failure to do so will likely prolong the evaluation process.

1.4 Pre-proposal conference

Not Applicable.

2 General rules

2.1 RFP overview

This Request for Proposals ("RFP") is an invitation for Proposers to submit a proposal to the County. It is not to be construed as an official and customary request for bids, but as a means by which the County can facilitate the acquisition of information related to the purchase of services. Any proposal submitted is a suggestion to negotiate and **NOT A BID**.

2.2 Estimated timeline and extension of time

July 20, 2020, 3:00 pm. Proposals due

July 22-23, 2020	Telephone Interviews (if requested by County)
July 27-28, 2020	Recommendation of award

These dates are subject to revision or cancellation by the County in its sole and absolute discretion.

2.3 Proposal submission

Proposals will be received in the [Hennepin County Supplier Portal](#). In order to submit a proposal, you must first register with the Supplier Portal. For more information on how to register, please go to the [Supplier Portal Information Page](#). Proposers are strongly encouraged to make their submissions in advance of the proposal due date as the process may take some time to complete.

Failure to submit a proposal on time may be grounds for rejection of the proposal; however, the County reserves the right, in its sole and absolute discretion, to accept proposals after the proposal due date.

2.4 Questions and communication restrictions

Questions concerning this RFP should be submitted in writing via e-mail with the subject line **RFP Election Outreach Services (CARES Act)** to the following:

To: Nimisha Nagalia, Voter Engagement Specialist
 Email: nimisha.nagalia@hennepin.us

Copy to: Eric Ampadu
 Email: eric.ampadu@hennepin.us

and: Steven Louie
 email: steven.louie@hennepin.us

Proposers shall not communicate, verbally or otherwise, with any Hennepin County personnel or boards or relevant consultant(s) concerning this RFP, except for the persons listed in this section. This restriction may be suspended or removed by the authority and direction of the persons listed above. If any Proposer attempts or completes any unauthorized communication, Hennepin County may, in its sole and absolute discretion, reject the Proposer's Proposal.

2.5 Addenda

The County reserves the right to modify the RFP at any time prior to the proposal due date. An addendum will be posted in the Supplier Portal if the RFP is modified. Addenda may be viewed by clicking on the 'View Event Package' on the Event Details page. It is the responsibility of each prospective Proposer to assure receipt of all addenda.

The County will modify the RFP only by formal written addenda. Proposer's Proposal should be based on this RFP document and any formal written addenda. Proposers should not rely on oral statements, including those occurring at pre-proposal meetings or site visits.

2.6 County's right to withdraw, cancel, suspend and/or modify RFP

The County reserves the right to withdraw, cancel, suspend, and/or modify this RFP for any reason and at any time with no liability to any prospective Proposer for any costs or expenses incurred in connection with the RFP or otherwise.

2.7 Proposer's right to edit or cancel proposal

A proposal may be edited or cancelled in the Supplier Portal prior to the proposal due date. For instructions, view the Edit or Cancel a Response section of the [How to Respond to an Event Guide](#).

2.8 Proposals will not be returned

Upon submission, proposals will not be returned.

2.9 Public disclosure of proposal documents

Under Minnesota law, proposals are private or nonpublic until the proposals are opened on the proposal due date. Once the proposals are opened, the name of the Proposer becomes public. All other data in the proposal is private/nonpublic data until completion of the evaluation process. The evaluation process is completed when the County enters into a contract with a Proposer. At that time, all remaining data submitted by all Proposers is public with the exception of data classified as private/non-public trade secret data under Minn. Stat. § 13.37 of the Minnesota Government Data Practices Act.

If the Proposer believes private/non-public data is included in its Proposal, Proposer shall clearly identify the data and provide the specific rationale in support of the asserted classification. Proposer must type in bold red letters the term "CONFIDENTIAL" on that specific part or page of the Proposal which Proposer believes to be confidential. Classification of data as trade secret data will be determined pursuant to applicable law, and, accordingly, merely labeling data as "trade secret" does not necessarily make the data protected as such under any applicable law.

The Proposer agrees, as a condition of submitting its Proposal, that the County will not, as between the parties, be liable or accountable for any loss or damage which may result from a breach of confidentiality related to the Proposal. Typically, pricing, fees, and costs are public data. The Proposer agrees to indemnify and hold the County, its officials, agents, and employees harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision.

2.10 Proposer's costs

The County shall not be responsible for any costs incurred by Proposer in connection with this RFP. Proposer shall bear all costs associated with proposal preparation, submission, and attendance at interviews, or any other activity associated with this RFP or otherwise.

2.11 Proposer's ideas

The County reserves the right to use any or all ideas, concepts, or other information provided in any proposals. Selection or rejection of the Proposal does not affect this right.

2.12 Collusion

If the County determines that collusion has occurred among Proposers, none of the proposals of the participants involved in the collusion shall be considered. The County's determination shall be final.

2.13 Conflict of interest

The Proposer affirms that to the best of its knowledge the submission of its Proposal, or any resulting contract, does not present an actual or perceived conflict of interest. The Proposer agrees that should any actual or perceived conflict of interest become known, it will immediately notify the County and will advise whether it will or will not avoid, mitigate, or neutralize the conflict of interest.

The County may make reasonable efforts to avoid, mitigate, or neutralize a conflict of interest by a Proposer. To avoid a conflict of interest by a Proposer, the County may utilize methods including disqualifying a Proposer from eligibility for a contract award or cancelling the contract if the conflict is discovered after a contract has been issued. The County may, at its sole and absolute discretion, waive any conflict of interest.

3 Evaluation and selection

3.1 Proposal evaluation and recommendation for selection

This RFP does not commit the County to award a contract. Submission of a proposal shall neither obligate nor entitle a Proposer to enter into a contract with the County. The County reserves the following rights, to be exercised in the County's sole and absolute discretion:

- 1) to determine whether any aspect of a proposal satisfactorily meets the criteria established in this RFP;
- 2) to seek clarification or additional information from any Proposer;
- 3) to negotiate, sequentially or simultaneously, pricing and/or terms with any Proposer or vendor;
- 4) to reject any or all proposals with or without cause;
- 5) to waive any irregularities or informalities in a proposal;
- 6) to cancel or amend by addenda this RFP, in part or entirely;

- 7) to award multiple contracts to Proposers; and/or
- 8) award a contract to a vendor that did not submit a proposal.

Evaluation of proposals by a selection committee, evaluation panel, County staff, a technical advisory committee, or by another group, individual or entity is advisory only. The County Board or its designee may consider or reject such evaluation(s) for any or all proposals. Such evaluations are for the sole benefit of the County Board or its designee, and as such, they are not binding upon the County, nor may they be relied upon in any way by a Proposer.

3.2 Evaluation of responsiveness

The County will consider all the material submitted by the Proposer to determine whether the Proposer's offer is in compliance with the terms and conditions set forth in this RFP. Proposals that do not comply with the provisions in this RFP may be considered nonresponsive and may be rejected.

3.3 Evaluation of responsibility

To determine whether a Proposer is responsible, the County will consider the Proposer's general qualifications to perform the requested services in a satisfactory manner; financial responsibility; integrity; skill; and ability.

Factors considered by the County may include, but are not limited to, Proposer's past performance on previous projects; the Proposer's technical capabilities; individual qualifications of Proposer's key personnel; and the Proposer's financial ability to perform on the contract. Proposals from Proposers considered non-responsible will be rejected.

3.4 Evaluation panel and evaluation criteria

After review of each responsive proposal, the County may immediately award a contract to a successful Proposer based on the evaluation criteria, or it may establish a short list of Proposers for further consideration. The short list of Proposers may be asked to provide additional information. The short list of Proposers may also be asked to attend an in-person or telephone interview/presentation, as determined by the County in its sole discretion.

Evaluation criteria shall include the following:

1. Approach to the work, plan and capacity for performing services, including without limitation:
 - Consultant's approach to the work and demonstrated understanding of work objectives
 - Proposed plan, schedule, and ability to provide required services in the project timeframe
 - Capacity to perform the wide variety of tasks required, including outreach, meeting facilitation, record-keeping and programmatic recommendations
 - Availability based on current work obligations
 - Management plan

2. Experience and qualifications, including without limitation:

- Experience working with specific individuals/community organizations
- Experience facilitating meetings and relevant training and facilitation methods
- Qualifications and experience related to past or current election outreach services (see section 1 consultant qualifications)
- Experience presenting complex information
- Individual qualifications of Proposer's key personnel
- Professional credentials
- Education or certifications
- Expertise
- Capability
- Past performance

3. Quality of Proposal, including without limitation:

- Demonstrated understanding of the scope of services
- Compliance with concise proposal format & content. Brevity is encouraged. (For example, bullet points are preferred to long narrative descriptions)
- Clarity and directness of Proposal
- Promotional or marketing materials, graphics or glossy photos are NOT desired though links to sample of work products are desired (no more than 3)

Cost shall not exceed \$10,000. If there are differences in cost, cost will be approximately equal in importance to a combination of all other non-cost factors shown. The County will consider the trade-off between proposal price and the other evaluation criteria in determining the proposal which is most advantageous to the County.

3.5 Telephone Interviews (if requested by the County)

The County reserves the right to request additional information from Proposers during any phase of the proposal evaluation process. During the evaluation process, the County may require the presence of a Proposer to make a presentation and/or answer specific questions regarding their Proposal. Proposers should reserve the date above for a possible interview/presentation.

3.6 Execution of contract

Before a contract becomes effective between the County and any Proposer, the contract award must be ratified and signed by the County Board or its designee. If for any reason the County Board or its designee does not ratify and sign the contract then there are no binding obligations whatsoever between the County and the Proposer relative to the proposed contract.

4 Attachments

- 4.1 **Attachment 1 – Scope of services**
- 4.2 **Attachment 2 - Proposal format and content**
- 4.3 **Attachment 3 – Hennepin County Terms and Conditions**

Attachment 1 – Scope of services

Contract Duration: August 25, 2020 – November 3, 2020

Total Amount: NTE \$10,000 per contract

Hennepin County Project Manager: Nimisha Nagalia

Background

Hennepin County is legally mandated to provide free, fair and safe elections and to safeguard citizens' right to vote. On June 11, 2020, the Hennepin County Board of Commissioners allocated \$1,500,000 in CARES funds to promote absentee voting and other safe-voting options during the COVID-19 pandemic.

As COVID-19 continues to spread in our jurisdiction, it has disabled or limited traditional means of person-to-person voter outreach. In a pandemic environment, the county must be proactive and innovative in its approach to making voting accessible to all county residents. This is a particularly critical for our residents in communities that have been hard hit by COVID-19, and for people at greater risk of contracting or spreading COVID-19.

In keeping with the county's focus on ensuring safe voter participation, we are tailoring our voter outreach to community-specific groups that have been impacted by COVID-19 (see list below), because of their higher incidence of COVID-19 cases, limited public transportation options, homelessness, and other factors. We will partner with trusted members from these communities and use their expertise to guide our actions.

- Communities that have been severely impacted by COVID-19¹:
 - Black, indigenous, people of color (BIPOC)
 - Low-income people
 - People experiencing homelessness
 - Senior population
- People who are at higher risk of severe COVID-19 symptoms
- People with disabilities
- People with language barriers

The county has surveyed residents in these communities, and they have expressed a strong desire to receive voter information from people in their own communities. In other words, they want to learn about voting from people they know and trust, and with whom they're comfortable talking to.

Overview

Hennepin County Elections division seeks 20 community organizations or businesses to help promote absentee voting and safe voting options with people who are at risk for COVID-19 infection.

Awards of up to \$10,000 are available to community organizations to provide civic education about COVID-19 safer voting options, technical assistance to their communities with voting process, translation/interpretation services, witness support, provision of masks/PPE, and advice to the County Elections office to enable adaptability in our processes. All work must be completed by November 4, 2020.

Description of Services

Vendors will provide the tasks listed below:

1. Provide civic education about absentee voting and COVID-19 safe in-person voting, either on-line or in-person, including door knocking, phone banking, social media engagement, workshops, and peer-to-peer education.
2. Provide technical assistance to voters through translation/interpretation, support filling out absentee ballot applications, support finding an absentee ballot witness, support finding an election day registration voucher, support finding cloth masks and gloves for election day in-person voting.
3. Periodically advise Hennepin County Elections office on barriers, challenges, and successes experienced by their community in relation to voting.
4. Reporting and record-keeping of the services, including a final report with demographic information and numerical results.

Goals:

- *Focus on voters of communities that are have been severely impacted by COVID-19.*
- Ensure the tools to vote safely are available to residents.
- Supporting community organizations with the existing civic engagement structure.
- Reduce the health risks and stress by encouraging all voters to vote absentee by mail and return their ballots early and to pre-register and avoid Election Day registration.
- Build trust in the absentee mail process as a healthy and safe voting method.
- Prepare voters that need to vote in person with a voting plan.

Interest

Hennepin County Elections will seek contracts with a diverse set of organizations who serve the following communities:

- 2 organizations that serve voters 60 years of age or older, particularly those who live alone or are in senior care facilities.
- 2 organizations that serve Latinx communities
- 2 organizations that serve Southeast Asian refugee and immigrant communities
- 2 organizations that serve East African refugee and immigrant communities
- 2 organizations that serve homeless and highly mobile communities
- 2 organizations that serve American Indian/indigenous communities
- 2 organizations that serve Black and African American communities
- 2 organizations that serve West African communities
- 2 organizations that serve Disability communities
- 2 organizations that serve voters 18-24 years old

¹ <https://www.mncompass.org/covid-19/social-determinants-of-health#1-14021-g>

Attachment 2 – Proposal format and content

Proposals **must** adhere to the following format:

1. Cover letter

The Proposer must submit a cover letter that includes the following:

- a. A statement that the Proposal is effective for a period of sixty (60) days or the date the contract takes effect, whichever is later;
- b. A statement confirming that the Proposer has reviewed and agrees to be bound by Hennepin County Terms and Conditions (Attachment 3); or, alternatively, a statement confirming that the Proposer has reviewed and agrees to be bound by Hennepin County Terms and Conditions (Attachment 3), excluding only those provisions that have been redlined for negotiation purposes (and are included in their Proposal); and
- c. A statement that the Proposer does not have an actual or perceived conflict of interest regarding this RFP or in submission of their Proposal; or alternatively, a statement explaining any conflict of interest and how to avoid, mitigate or neutralize the conflict.

2. Proposal

The Proposal shall contain the following information (and in the same order):

- a. A brief summary of the Proposer and key personnel, including a complete list of all subcontractors and joint venture partners (if applicable). Include the size, organizational structure and history, limited to no more than 1 page. Proposer must identify which specific community or communities it is proposing to provide outreach.
- b. A description of the consultant's approach to the work and plan for performing services in response to the scope of services in Section 1.2 above, limited to no more than 1 page, including but not limited to the following:
 - i. tasks and implementation schedule including estimated start and finish dates;
 - ii. capacity to perform the services;
 - iii. availability of staff and resources; with roles and responsibilities of staff identified
- c. Pricing/cost: provide the billable hourly rate per assigned professional staff.

Attachment 3 – Hennepin County Terms and Conditions

PERSONAL/PROFESSIONAL SERVICE AGREEMENT

This Agreement is between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2300 Government Center, Minneapolis, Minnesota 55487, on behalf of the Hennepin County (Department name and address) ("COUNTY"), and (CONTRACTOR's name and also address if CONTRACTOR's business address and home address are not the same) ("CONTRACTOR").

The parties agree as follows:

1. TERM AND COST OF THE AGREEMENT

CONTRACTOR shall furnish services to COUNTY commencing _____ and expiring _____, unless cancelled or terminated earlier in accordance with the provisions herein.

CONTRACTOR shall be paid an hourly rate of _____ (\$_____) per hour or per attached billable hourly rate schedule of contractual services actually performed. The total cost of this Agreement, including all reimbursable expenses, shall not exceed _____ Dollars (\$_____).

Except for the payments expressly set forth herein, costs and expenses for travel, airfare, lodging, per diem, parking, mileage, ground transportation, and all other costs or reimbursable expenses shall be paid by the CONTRACTOR and not reimbursed by the COUNTY.

2. SERVICES TO BE PROVIDED

Subject to the provisions herein, including but not limited to Section 3, CONTRACTOR shall provide the following services: _____
_____ These services are more fully described in Attachment A.

Unless the parties otherwise agree, all services performed shall meet the criteria of section 601(d) of the Social Security Act, including qualifying as a necessary expenditure incurred due to the public health emergency. CONTRACTOR shall

facilitate and ensure compliance with COVID-19-related public health measures, including social distancing.

Upon COUNTY's request, CONTRACTOR shall provide detailed reports describing services performed in association with this Agreement, which may include aggregated and/or redacted participant demographics.

Where applicable, works of authorship created by CONTRACTOR for COUNTY in performance of this Agreement shall be considered "works made for hire" as defined in the U.S. Copyright Act. All right, title and interest in all copyrightable material which CONTRACTOR may conceive or originate either individually or jointly with others, and which arises out of the performance of this Agreement, are the property of COUNTY. CONTRACTOR assigns to COUNTY all right, title, interest and copyrights in and to the copyrightable material. CONTRACTOR shall also, upon request of COUNTY, execute all papers and perform all other acts necessary to assist COUNTY to obtain and register copyrights in those materials.

CONTRACTOR warrants that, when legally required, CONTRACTOR shall obtain the written consent of both the owner and licensor to reproduce, publish, and/or use any material supplied to COUNTY including, but not limited to, software, hardware, documentation, and/or any other item. CONTRACTOR further warrants that any material or item delivered by CONTRACTOR will not violate the United States copyright law or any property right of another.

3. PAYMENT FOR SERVICES

Unless the parties otherwise agree, CONTRACTOR shall submit proposed services and service related expenditures to COUNTY by and through the Contract Administrator at least seven (7) days prior to performance. COUNTY must approve all proposed services and/or service related expenditures in advance. Following approval of proposed services and/or service related expenditures, CONTRACTOR shall invoice COUNTY for actual expenses incurred in association with the Programs and CONTRACTOR's services. Unless expressly approved by COUNTY in advance, the parties agree that CONTRACTOR shall not invoice COUNTY for any payroll expenses. If COUNTY's funding sources, including but not limited to the Federal Emergency Management Agency's Public Assistance Program and/or the Coronavirus Relief Fund available under section 601(a) of the Social Security Act, subsequently reject a use of funds or seek to recoup funds for any service or service related expenditure already paid to CONTRACTOR by COUNTY hereunder, COUNTY shall be relieved of its obligation to pay

CONTRACTOR the rejected/recouped amount and may withhold a like amount from subsequent invoices to off-set the same.

Payment shall be made within thirty-five (35) days from receipt of the invoice. Payments hereunder shall be made pursuant to COUNTY's then-current payment policy. COUNTY is not responsible for remedying fraudulent or unauthorized payments requested in CONTRACTOR's name.

CONTRACTOR shall not provide services under this Agreement without receiving a purchase order or purchase order number supplied by COUNTY. All invoices shall display a Hennepin County purchase order number and be sent to the central invoice receiving address supplied by COUNTY.

4. PROFESSIONAL CREDENTIALS

CONTRACTOR shall provide all information requested by COUNTY to facilitate the verification of educational and professional credentials from primary sources. CONTRACTOR shall undergo a review of professional credentials as requested by COUNTY during the term of this Agreement.

5. INDEPENDENT CONTRACTOR

CONTRACTOR shall select the means, method, and manner of performing the services. Nothing is intended nor should be construed as creating or establishing the relationship of a partnership or a joint venture between the parties or as constituting CONTRACTOR as the agent, representative, or employee of COUNTY for any purpose. CONTRACTOR is and shall remain an independent contractor for all services performed under this Agreement. CONTRACTOR shall secure at its own expense all personnel required in performing services under this Agreement. CONTRACTOR's personnel and/or subcontractors engaged to perform any work or services required by this Agreement will have no contractual relationship with COUNTY and will not be considered employees of COUNTY. COUNTY shall not be responsible for any claims related to or on behalf of any of CONTRACTOR's personnel, including without limitation, claims that arise out of employment or alleged employment under the Minnesota Unemployment Insurance Law (Minnesota Statutes Chapter 268) or the Minnesota Workers' Compensation Act (Minnesota Statutes Chapter 176) or claims of discrimination arising out of state, local or federal law, against CONTRACTOR, its officers, agents, contractors, or employees. Such personnel or other persons shall neither accrue nor be entitled to any compensation, rights, or benefits of any kind from COUNTY, including,

without limitation, tenure rights, medical and hospital care, sick and vacation leave, workers' compensation, unemployment compensation, disability, severance pay, and retirement benefits.

6. NON-DISCRIMINATION

In accordance with COUNTY's policies against discrimination, CONTRACTOR shall not exclude any person from full employment rights nor prohibit participation in or the benefits of any program, service or activity on the grounds of any protected status or class including but not limited to race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status, or national origin. No person who is protected by applicable federal or state laws against discrimination shall be subjected to discrimination.

7. AFFIRMATIVE ACTION

A. Requirements. In accordance with Hennepin County Board Resolution and subject to the applicable exemptions, if any, in Par. B below, if this Agreement is for a sum over \$100,000 or is amended to exceed \$100,000, then CONTRACTOR shall abide by COUNTY's Affirmative Action requirements for COUNTY contractors. Those requirements, for purposes of this Agreement, are consistent with those imposed for state contractors pursuant to Minnesota Statutes, sections 363A.36 to .37 and Minnesota Rules, parts 5000.3200 to 5000.3600.

B. Exemptions. CONTRACTOR may be granted an exemption for one of the following reasons:

- (1) Contract is for emergency or life safety-related purchases;
- (2) CONTRACTOR has no facilities and has no more than one employee operating within the geographic boundaries of Hennepin County;
- (3) CONTRACTOR had an average of forty (40) or fewer full-time/benefit-earning employees during the twelve (12) months preceding the submission of the bid, request for proposal or execution of this Agreement; or
- (4) Pursuant to Hennepin County Board policy, the County Administrator or his/her designee granted an exemption.

C. Compliance; Remedies. CONTRACTOR shall demonstrate compliance by submitting and maintaining a workforce certificate from the Minnesota

Department of Human Rights (MDHR), unless COUNTY provides for alternative certification. CONTRACTOR shall remain in compliance with all applicable requirements through the term of this Agreement. CONTRACTOR shall also provide all compliance documentation requested by the MDHR or by COUNTY, and shall cooperate with all compliance activities, including but not limited to site visits. If CONTRACTOR fails to demonstrate good faith efforts to correct any identified Affirmative Action deficiencies or fails to submit requested reports or information required by COUNTY or the MDHR, or has engaged in discriminatory practices, COUNTY may consider this a violation of this Agreement and may exercise any remedies available to it in law or in equity, including, but not limited to, cancellation or termination of this Agreement.

8. INDEMNIFICATION

CONTRACTOR shall defend, indemnify, and hold harmless COUNTY, its present and former officials, officers, agents, volunteers and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, resulting directly or indirectly from any act or omission of CONTRACTOR, a subcontractor, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this Agreement, and against all loss by reason of the failure of CONTRACTOR to perform any obligation under this Agreement. For clarification and not limitation, this obligation to defend, indemnify and hold harmless includes but is not limited to any liability, claims or actions resulting directly or indirectly from alleged infringement of any copyright or any property right of another, the employment or alleged employment of CONTRACTOR personnel, the unlawful disclosure and/or use of protected data, or other noncompliance with the requirements of the provisions set forth herein.

9. INSURANCE

A. With respect to the services provided pursuant to this Agreement, CONTRACTOR shall, at its sole expense, procure and maintain insurance of the types, and in the form and amounts described below from insurer(s) authorized to transact business in the state where services or operations will be performed by CONTRACTOR. Such insurance and required coverage shall be in forms acceptable to COUNTY. The insurance requirements described below shall be maintained uninterrupted for the duration of this Agreement and beyond such term when so required, and

shall cover CONTRACTOR, and others for whom and/or to whom CONTRACTOR may be liable, for liabilities in connection with work performed for or on behalf of COUNTY, its agents, representatives, employees or contractors. CONTRACTOR is required to have and keep in force the following minimum insurance coverages or CONTRACTOR's actual insurance limits for primary coverage and excess liability or umbrella policy limits, whichever is greater:

Limits

- (1) Commercial General Liability (CGL) on an occurrence basis with contractual liability coverage (this coverage shall be written on the most current ISO (Insurance Services Office, Inc.) CGL form or its equivalent):

General Aggregate	\$500,000
Products—Completed Operations Aggregate	500,000
Personal and Advertising Injury	100,000
Each Occurrence—Combined Bodily Injury and Property Damage	100,000

- (2) Workers' Compensation and Employer's Liability:

Workers' Compensation	Statutory
<p>If CONTRACTOR is based outside the state of Minnesota, coverage must comply with Minnesota law. If CONTRACTOR is a sole proprietor, it is exempted from the above Workers' Compensation requirements to the extent provided by Minnesota law. In the event that CONTRACTOR should hire employees or subcontract this work, CONTRACTOR shall obtain the required insurance.</p>	

Employer's Liability. Bodily injury by:	
Accident—Each Accident	100,000
Disease—Policy Limit	500,000
Disease—Each Employee	100,000

- (3) Automobile Liability 500,000

CONTRACTOR shall maintain automobile liability and, if necessary, commercial umbrella insurance. Such insurance shall cover liability for bodily injury and property damage arising from the use or operation of any auto, including those owned, hired or otherwise operated or used by or on behalf of CONTRACTOR.

- B. An umbrella or excess policy is an acceptable method to provide the required commercial general insurance coverage.

Coverage shall not include any exclusion or other limitations related to:

- (1) Scope of services;
- (2) Delays in project completion and cost overruns;
- (3) Persons or entities authorized to notify the carrier of a claim or potential claim; or
- (4) Mold, fungus, asbestos, pollutants or other hazardous substances.

The above establishes minimum insurance requirements. It is the sole responsibility of CONTRACTOR to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Upon written request, CONTRACTOR shall promptly submit copies of insurance policies to COUNTY.

CONTRACTOR shall not commence work until it has obtained required insurance and filed with COUNTY a properly executed Certificate of Insurance establishing compliance. The certificate(s) must name Hennepin County as the certificate holder, and as an additional insured for the commercial general liability and the automobile liability coverages

required herein. A self-insured retention (SIR) is not acceptable, unless expressly agreed to in writing by COUNTY. The funding of deductibles and self-insured retentions maintained by CONTRACTOR, if allowed by COUNTY, shall be the sole responsibility of CONTRACTOR. If the certificate form contains a certificate holder notification provision, the certificate shall state that the insurer will endeavor to mail to COUNTY thirty (30) day prior written notice in the event of cancellation/termination of any described policies. If CONTRACTOR receives notice of cancellation/termination from an insurer, CONTRACTOR shall fax or email a copy of the notice to COUNTY within two business days.

CONTRACTOR shall furnish to COUNTY updated certificates during the term of this Agreement as insurance policies expire. If CONTRACTOR fails to furnish proof of insurance coverages, COUNTY may withhold payments and/or pursue any other right or remedy allowed under contract, law, equity, and/or statute.

CONTRACTOR's required insurance shall be primary insurance and any insurance or self-insurance maintained by COUNTY shall be in excess of and non-contributory with CONTRACTOR'S insurance. CONTRACTOR waives all rights against COUNTY, its officials, officers, agents, volunteers, and employees for recovery of damages to the extent that damages are covered by insurance of CONTRACTOR. If necessary, CONTRACTOR agrees to endorse the required insurance policies to permit waivers of subrogation in favor of COUNTY.

10. DUTY TO NOTIFY

CONTRACTOR shall promptly notify COUNTY of any claim, action, cause of action or litigation brought against CONTRACTOR, its employees, officers, agents or subcontractors, which arises out of the services described in this Agreement. CONTRACTOR shall also notify COUNTY whenever CONTRACTOR has a reasonable basis for believing that CONTRACTOR and/or its employees, officers, agents or subcontractors, and/or COUNTY, might become the subject of a claim, action, cause of action, administrative action, criminal arrest, criminal charge or litigation arising out of and/or related to the services described in this Agreement.

11. DATA PRIVACY AND SECURITY

- A. CONTRACTOR, its officers, agents, owners, partners, employees, volunteers and subcontractors shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13 (MGDPA) and all other applicable state and federal laws, rules, regulations and orders relating to data or the privacy, confidentiality or security of data, which may include the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). For clarification and not limitation, COUNTY hereby notifies CONTRACTOR that the requirements of Minnesota Statutes section 13.05, subd. 11, apply to this Agreement. CONTRACTOR shall promptly notify COUNTY if CONTRACTOR becomes aware of any potential claims, or facts giving rise to such claims, under the MGDPA or other data, data security, privacy or confidentiality laws, and shall also comply with the other requirements of this Section.

Classification of data, including trade secret data, will be determined pursuant to applicable law and, accordingly, merely labeling data as "trade secret" by CONTRACTOR does not necessarily make the data protected as such under any applicable law.

- B. In addition to the foregoing MGDPA and other applicable law obligations, CONTRACTOR shall comply with the following duties and obligations regarding County Data and County Systems (as each term is defined herein). As used herein, "County Data" means any data or information, and any copies thereof, created by CONTRACTOR or acquired by CONTRACTOR from or through COUNTY pursuant to this Agreement, including but not limited to handwriting, typewriting, printing, photocopying, photographing, facsimile transmitting, and every other means of recording any form of communication or representation, including electronic media, email, letters, works, pictures, drawings, sounds, videos, or symbols, or combinations thereof.

If CONTRACTOR has access to or possession/control of County Data, CONTRACTOR shall safeguard and protect the County Data in accordance with generally accepted industry standards, all laws, and all applicable COUNTY policies, rules and direction. To the extent of any inconsistency between accepted industry standards and COUNTY policies, rules and directions, CONTRACTOR shall notify COUNTY of the inconsistency and

follow COUNTY direction. CONTRACTOR shall immediately notify COUNTY of any known or suspected security breach or unauthorized access to County Data, then comply with all responsive directions provided by COUNTY. The foregoing shall not be construed as eliminating, limiting or otherwise modifying CONTRACTOR's indemnification obligations herein.

- C. COUNTY may, in its sole discretion, grant CONTRACTOR limited access to COUNTY computer/data systems including but not limited to COUNTY computers, networks, databases, applications and/or environments ("County Systems") exclusively for the purposes of performing services hereunder. County Systems may be owned by COUNTY or may be licensed by COUNTY from a third party. If COUNTY grants access to County Systems, CONTRACTOR and all CONTRACTOR personnel with access to County Systems shall comply with COUNTY data practices and security policies, rules and directions when accessing and using County Systems. Compliance with such requirements is supplemental to CONTRACTOR's duty to comply with applicable laws and regulations and CONTRACTOR's ordinary duty of care in such situations.

For clarification and not limitation of the foregoing, CONTRACTOR's access to County Systems shall be subject to the following: (i) CONTRACTOR shall notify all personnel with access to County Systems of the obligations imposed by this Agreement; (ii) personnel performing on behalf of CONTRACTOR shall complete COUNTY approved data practices and security training as required by COUNTY; (iii) if CONTRACTOR utilizes its own systems, software or equipment in the performance of this Agreement, the same shall meet COUNTY's technical operating and security system requirements, including but not limited to installing and/or maintaining COUNTY approved firewalls, proxies, filters and other monitors and controls; (iv) CONTRACTOR shall immediately notify COUNTY of any known or suspected County System incidents or breaches, then comply with all responsive directions provided by COUNTY; and (v) if any CONTRACTOR personnel with access to County Systems no longer requires said access and/or is no longer performing services hereunder, CONTRACTOR shall immediately notify COUNTY and ensure that said individual no longer has access to County Systems, including but not limited to deleting, eliminating and destroying all access points, usernames, passwords and/or other applicable credentials. Any notice required by the foregoing shall be provided to the COUNTY Contract

Administrator (as identified in the CONTRACT ADMINISTRATION provisions below).

- D. Upon expiration, cancellation or termination of this Agreement:
- (1) At the discretion of COUNTY and as specified in writing by the Contract Administrator, CONTRACTOR shall deliver to the Contract Administrator all County Data so specified by COUNTY.
 - (2) COUNTY shall have full ownership and control of all such County Data. If COUNTY permits CONTRACTOR to retain copies of the County Data, CONTRACTOR shall not, without the prior written consent of COUNTY or unless required by law, use any of the County Data for any purpose or in any manner whatsoever; shall not assign, license, loan, sell, copyright, patent and/or transfer any or all of such County Data; and shall not do anything which in the opinion of COUNTY would affect COUNTY's ownership and/or control of such County Data.
 - (3) Except to the extent required by law or as agreed to by COUNTY, CONTRACTOR shall not retain any County Data that are confidential, protected, privileged, not public, nonpublic, or private, as those classifications are determined pursuant to applicable law. In addition, CONTRACTOR shall, upon COUNTY's request, certify destruction of any County Data so specified by COUNTY.

12. RECORDS – AVAILABILITY/ACCESS

Subject to the requirements of Minnesota Statutes section 16C.05, subd. 5, COUNTY, the State Auditor, or any of their authorized representatives, at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of CONTRACTOR and involve transactions relating to this Agreement. CONTRACTOR shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

13. SUCCESSORS, SUBCONTRACTING AND ASSIGNMENTS

- A. CONTRACTOR binds itself, its partners, successors, assigns and legal representatives to COUNTY for all covenants, agreements and obligations herein.
- B. CONTRACTOR shall not assign, transfer or pledge this Agreement and/or the services to be performed, whether in whole or in part, nor assign any monies due or to become due to it without the prior written consent of COUNTY. A consent to assign shall be subject to such conditions and provisions as COUNTY may deem necessary, accomplished by execution of a form prepared by COUNTY and signed by CONTRACTOR, the assignee and COUNTY. Permission to assign, however, shall under no circumstances relieve CONTRACTOR of its liabilities and obligations under the Agreement.
- C. CONTRACTOR shall not subcontract this Agreement and/or the services to be performed, whether in whole or in part, without the prior written consent of COUNTY. Permission to subcontract, however, shall under no circumstances relieve CONTRACTOR of its liabilities and obligations under the Agreement. Further, CONTRACTOR shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of the specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between CONTRACTOR and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. CONTRACTOR shall make contracts between CONTRACTOR and subcontractors available upon request. For clarification and not limitation of the provisions herein, none of the following constitutes assent by COUNTY to a contract between CONTRACTOR and a subcontractor, or a waiver or release by COUNTY of CONTRACTOR's full compliance with the requirements of this Section: (1) COUNTY's request or lack of request for contracts between CONTRACTOR and subcontractors; (2) COUNTY's review, extent of review or lack of review of any such contracts; or (3) COUNTY's statements or actions or omissions regarding such contracts.
- D. As required by Minnesota Statutes section 471.425, subd. 4a, CONTRACTOR shall pay any subcontractor within ten (10) days of CONTRACTOR's receipt of payment from COUNTY for undisputed services

provided by the subcontractor, and CONTRACTOR shall comply with all other provisions of that statute.

- E. CONTRACTOR shall notify COUNTY in writing if another person/entity acquires, directly or indirectly, more than 50 percent of the voting power of the shares entitled to vote for directors of CONTRACTOR. Notice shall be given within ten (10) days of such acquisition and shall specify the name and business address of the acquiring person/entity. COUNTY reserves the right to require the acquiring person/entity to promptly become a signatory to this Agreement by amendment or other document so as to help assure the full performance of this Agreement.

14. MERGER, MODIFICATION AND SEVERABILITY

- A. The entire Agreement between the parties is contained herein and supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.

CONTRACTOR and/or COUNTY are each bound by its own electronic signature(s) on this Agreement, and each agrees and accepts the electronic signature of the other party.

- B. Any alterations, variations or modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties. Except as expressly provided, the substantive legal terms contained in this Agreement including but not limited to Indemnification, Insurance, Merger, Modification and Severability, Default and Cancellation/Termination or Minnesota Law Governs may not be altered, varied, modified or waived by any change order, implementation plan, scope of work, development specification or other development process or document.
- C. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

15. DEFAULT AND CANCELLATION/TERMINATION

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement, fails to administer the work so as to endanger the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it shall be in default. Unless CONTRACTOR's default is excused in writing by COUNTY, COUNTY may upon written notice immediately cancel or terminate this Agreement in its entirety. Additionally, failure to comply with the terms of this Agreement shall be just cause for COUNTY to delay payment until CONTRACTOR's compliance. In the event of a decision to withhold payment, COUNTY shall furnish prior written notice to CONTRACTOR.
- B. Notwithstanding any provision of this Agreement to the contrary, CONTRACTOR shall remain liable to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by CONTRACTOR. Upon notice to CONTRACTOR of the claimed breach and the amount of the claimed damage, COUNTY may withhold any payments to CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due COUNTY from CONTRACTOR is determined. Following notice from COUNTY of the claimed breach and damage, CONTRACTOR and COUNTY shall attempt to resolve the dispute in good faith.
- C. The above remedies shall be in addition to any other right or remedy available to COUNTY under this Agreement, law, statute, rule, and/or equity.
- D. COUNTY's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.
- E. This Agreement may be canceled/terminated with or without cause by either party upon thirty (30) day written notice.
- F. If this Agreement expires or is cancelled or terminated, with or without cause, by either party, at any time, CONTRACTOR shall not be entitled to any payment, fees or other monies except for payments duly invoiced for

then-delivered and accepted deliverables/milestones pursuant to this Agreement. In the event CONTRACTOR has performed work toward a deliverable that COUNTY has not accepted at the time of expiration, cancellation or termination, CONTRACTOR shall not be entitled to any payment for said work including but not limited to incurred costs of performance, termination expenses, profit on the work performed, other costs founded on termination for convenience theories or any other payments, fees, costs or expenses not expressly set forth in this Agreement.

- G. Upon written notice, COUNTY may immediately suspend or cancel/terminate this Agreement in the event any of the following occur: (i) COUNTY does not obtain anticipated funding from an outside source for this project; (ii) funding for this project from an outside source is withdrawn, frozen, shut down, is otherwise made unavailable or COUNTY loses the outside funding for any other reason; or (iii) COUNTY determines, in its sole discretion, that funding is, or has become, insufficient. COUNTY is not obligated to pay for any services that are provided or costs or expenses or obligations incurred or encumbered after the notice and effective date of the suspension or cancellation/termination. In the event COUNTY suspends, cancels or terminates this Agreement pursuant to this paragraph, COUNTY shall pay any amount due and payable prior to the notice of suspension or cancellation/termination except that COUNTY shall not be obligated to pay any amount as or for penalties, early termination fees, charges, time and materials for services not then performed, costs, expenses or profits on work done.
- H. CONTRACTOR has an affirmative obligation, upon written notice by COUNTY that this Agreement may be suspended or cancelled/terminated, to follow reasonable directions by COUNTY, or absent directions by COUNTY, to exercise a fiduciary obligation to COUNTY, before incurring or making further costs, expenses, obligations or encumbrances arising out of or related to this Agreement.

16. SURVIVAL OF PROVISIONS

Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement do survive such term, cancellation or termination. Such provisions include but are not limited to: SERVICES TO BE PROVIDED (as to ownership of property); INDEPENDENT CONTRACTOR; INDEMNIFICATION;

INSURANCE; DUTY TO NOTIFY; DATA PRIVACY AND SECURITY; RECORDS-AVAILABILITY/ACCESS; DEFAULT AND CANCELLATION/TERMINATION; MEDIA OUTREACH; and MINNESOTA LAW GOVERNS.

17. CONTRACT ADMINISTRATION

In order to coordinate the services of CONTRACTOR with the activities of the (Name of County Department/Division) so as to accomplish the purposes of this Agreement, (Name and Title of Contract Manager), or successor ("Contract Administrator"), shall manage this Agreement on behalf of COUNTY and serve as liaison between COUNTY and CONTRACTOR.

_____ shall manage the agreement on behalf of CONTRACTOR. CONTRACTOR may replace such person but shall immediately give written notice to COUNTY of the name, phone number and email/fax number (if available) of such substitute person and of any other subsequent substitute person.

Phone: _____

Email: _____

18. COMPLIANCE AND NON-DEBARMENT CERTIFICATION

- A. CONTRACTOR shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances currently in force or later enacted.
- B. If the source or partial source of funds for payment of services under this Agreement is federal, state or other grant monies, CONTRACTOR shall comply with all applicable conditions of the specific referenced or attached grant.
- C. CONTRACTOR certifies that it is not prohibited from doing business with either the federal government or the state of Minnesota as a result of debarment or suspension proceedings.
- D. If applicable, CONTRACTOR shall comply with the requirements set forth in the attached Subrecipient Compliance Addendum available from the COUNTY upon request.

- E. If the source or partial source of funds for payment of services under this Agreement is from federal or state monies or from a federal, state or other grant source, CONTRACTOR is bound by and shall comply with applicable law, rules, regulations, applicable documentation or other COUNTY directives relating to the source and utilization of such funds.
- F. CONTRACTOR shall abide by all additional federal requirements established in Attachment B, incorporated and made a part of this Agreement.

19. PAPER RECYCLING

COUNTY encourages CONTRACTOR to develop and implement an office paper and newsprint recycling program.

20. NOTICES

Unless the parties otherwise agree in writing, any notice or demand which must be given or made by a party under this Agreement or any statute or ordinance shall be in writing, and shall be sent registered or certified mail. Notices to COUNTY shall be sent to the County Administrator with a copy to the originating COUNTY department at the address given in the opening paragraph of this Agreement. Notice to CONTRACTOR shall be sent to the address stated in the opening paragraph of this Agreement or to the address stated in CONTRACTOR's Form W-9 provided to COUNTY.

21. CONFLICT OF INTEREST

CONTRACTOR affirms that to the best of CONTRACTOR's knowledge, CONTRACTOR's involvement in this Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Agreement. Should any conflict or potential conflict of interest become known to CONTRACTOR, CONTRACTOR shall immediately notify COUNTY of the conflict or potential conflict, specifying the part of this Agreement giving rise to the conflict or potential conflict, and advise COUNTY whether CONTRACTOR will or will not resign from the other engagement or representation. Unless waived by COUNTY, a conflict or potential conflict may, in COUNTY's discretion, be cause for cancellation or termination of this Agreement.

22. MEDIA OUTREACH

CONTRACTOR shall notify COUNTY, prior to publication, release or occurrence of any Outreach (as defined below). The parties shall coordinate to produce collaborative and mutually acceptable Outreach. For clarification and not limitation, all Outreach shall be approved by COUNTY, by and through the Public Relations Officer or his/her designee(s), prior to publication or release. As used herein, the term "Outreach" shall mean all media, social media, news releases, external facing communications, advertising, marketing, promotions, client lists, civic/community events or opportunities and/or other forms of outreach created by, or on behalf of, CONTRACTOR (i) that reference or otherwise use the term "Hennepin County," or any derivative thereof; or (ii) that directly or indirectly relate to, reference or concern the County of Hennepin, this Agreement, the services performed hereunder or COUNTY personnel, including but not limited to COUNTY employees and elected officials.

23. MINNESOTA LAWS GOVERN

The laws of the state of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, state of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the state of Minnesota.

24. COOPERATIVE PURCHASING

At the time of this Agreement: (1) Hennepin County is a signature party to the Joint Powers Purchasing Agreement (Agreement No. A131396) (the "JPA"); (2) the Minnesota Counties of Anoka, Carver, Dakota, Olmsted, Ramsey, Scott and Washington are signatories to the JPA ("Cooperative Members"); (3) if agreed upon pursuant to a separate agreement between CONTRACTOR and any Cooperative Member, the JPA allows a Cooperative Member, subject to the terms of the JPA, to purchase the same or substantially similar services based upon terms that are the same or substantially similar to those set forth in this Agreement including but not limited to price/cost; and (4) COUNTY shall have no obligation, liability or responsibility for any order or purchase made under the contract between a Cooperative Member and CONTRACTOR.

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ATTACHMENT A: Scope of Services

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ATTACHMENT B: Federal Award Contract Provisions

This Attachment of the Federal Award Contract Provisions is attached and incorporated into and made part of this Agreement.

Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed in the Agreement. Additionally, the term "contract" shall mean the "Agreement"; the terms "contractor", "Contractor", and "CONTRACTOR" shall mean MCCD; and the terms "APPLICANT" and "COUNTY" shall mean the COUNTY OF HENNEPIN, STATE OF MINNESOTA.

Subject to (i) applicable federal law, including but not limited to 2 C.F.R. §200.326 and 2 C.F.R., Part 200, Appendix II; (ii) COUNTY's application of federal awards to this transaction; and (iii) the nature and cost of the transaction, the following provisions may be applicable:

1. Remedies.

The remedy provisions in the Agreement including but not limited to Sections 8 and 15 shall apply.

2. Termination For Cause and/or For Convenience.

The termination provisions in the Agreement, including but not limited to Section 15 shall apply.

3. Equal Employment Opportunity.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation

information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The APPLICANT further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the APPLICANT so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The APPLICANT agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The APPLICANT further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the APPLICANT agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such APPLICANT; and refer the case to the Department of Justice for appropriate legal proceedings.

4. Davis-Bacon Act.

a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

c. Additionally, contractors are required to pay wages not less than once a week.

5. Copeland Anti-Kickback Act.

a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as Department of Treasury or FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier

subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

6. Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The U.S. Department of Homeland Security or such other applicable agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

7. Rights to Inventions Made Under a Contract or Agreement.

The parties shall comply with the requirements of 37 CFR Part 401.

8. Clean Air Act and the Federal Water Pollution Control Act.

A. Clean Air Act.

1. The contractor 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.
2. The contractor agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Department of Treasury or FEMA.

B. Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. Debarment and Suspension.

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by COUNTY. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

If applicable, contractors must sign and submit to the non-federal entity the certification found in APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING.

11. Procurement of Recovered Materials.

(i) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.

(ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iii) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

12. Access to Records.

The following access to records requirements apply to this contract:

(1) The Contractor agrees to provide COUNTY and/or other recipient(s), the Department of Treasury, FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor 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 Contractor agrees to provide the Department of Treasury, FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the COUNTY and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Department of Treasury, FEMA Administrator or the Comptroller General of the United States.

13. Changes.

The provisions related to changing or modifying the method, price, or schedule of the work in Section 14(B) of the Agreement shall apply.

14. DHS Seal, Logo, and Flags.

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

15. Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that Department of Treasury or FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, policies, procedures, and directives.

16. No Obligation by Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

17. Program Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's action pertaining to this contract.
