

Notice to Bidders

Invitation for Bids #1161647 for HVAC MERV-13 Air Filters

This solicitation may be subject to the County's Wage Requirements law for service contracts. If this solicitation is subject to this law, then Item #27, under Section A, "Services Contract", on page 4, and "Wage Requirements Certification", under "Mandatory Submissions: (a) Bid Submissions," on page B, will be marked. And, in this event, the "Requirements for Services Contract Addendum" should be attached.

If this solicitation is subject to the Wage Requirements law, then the "Wage Requirements Certification" and, if applicable, the "501(c)(3) Non-profit Organization's Employee's Wage and Health Insurance Form" (see forms near the end of this document), must be completed and submitted with your bid. If you fail to submit and complete the required material information on the form(s), your bid may be unacceptable under County law and may be rejected for nonresponsiveness.

As noted in Attachment "C" (Section A on Page C2, Wage Requirements Compliance), a contractor required to comply with the Wage Requirements Law must submit certified payroll records for all employees and all subcontractor's employees governed by the Wage Requirements Law, for each payroll period, to the Office of Business Relations and Compliance, Attn: Wage Program Manager. These payroll records must be submitted quarterly (January, April, July, and October for the prior quarter) and must include the following for each employee and each subcontractor's employee: name; address; position/title; daily straight time hours worked; daily overtime hours worked; straight time hourly pay rate; overtime hourly pay rate; any deduction for health insurance; total gross wages paid for each period; and total net wages paid after any additions and deductions for each pay period.

Please note the information pertaining to the Wage Requirements law that is contained in Attachment C. Note that for services contracts, you can find the current mandatory per-hour wage rate payable to employees under Section 11B-33A of the County Code, by going to the website (www.montgomerycountymd.gov/WRL).

MONTGOMERY COUNTY, MARYLAND
INVITATION FOR BIDS
GENERAL INFORMATION

NOTE TO POTENTIAL BIDDERS:

Bidder must electronically submit their bid through www.bidnetdirect.com/maryland/montgomerycounty no later than the due date and time as indicated on Page A and Page E. Bidders must register with BidNet Direct in order to view and respond to this solicitation. Visit www.bidnetdirect.com and click on the link to register at no charge. Follow the registration path and select the "Limited Access" option which will provide you with an automatic e-mail notification at no charge. If you need help registering, please call BidNet Direct's Support Department at 800-835- 4603, Option 2. It is the bidder's responsibility to follow all steps in BidNet to completion in order to ensure submission of the proposal. The County will not accept bids submitted after the due date and time as indicated on Page A and Page E.

The County will not accept bids it receives by fax, email, mail, or personal delivery. All faxed, emailed, mailed, or personally delivered bids will be returned to the bidder.

Please note:

- The **Name and Signature Requirements** sections located on the Solicitation, Bid, and Award Sheet.
Failure to sign your bid as required may be cause for your bid to be deemed nonresponsive.

- The **Mandatory Bid Submissions** on Page B. The checked items must be submitted with your bid.
Failure to submit the mandatory bid submissions may be cause for your bid to be deemed nonresponsive.

- The **Method of Award** stated in this solicitation on Page A and Page 1, in Section A, Item #3.

BID COVER SHEET

MONTGOMERY COUNTY OFFICE OF PROCUREMENT
27 COURTHOUSE SQUARE, SUITE 330, ROCKVILLE, MD 2085

IFB#:	1161647	OPENING DATE:	December 15, 2023 *See Page E	OPENING TIME:	11:00 am
FOR:	HVAC MERV-13 Air Filters			ISSUE DATE:	November 15, 2023

SECTION A – INSTRUCTIONS, CONDITIONS AND NOTICES
The following checked (X) provisions in Section A are applicable to this solicitation and any resulting contract.

1		BID GUARANTEE: A bid guarantee of N/A is required for this bid.
2	<input checked="" type="checkbox"/>	INTENT: A. <input checked="" type="checkbox"/> B. _____
3	<input checked="" type="checkbox"/>	METHOD OF AWARD A. <input checked="" type="checkbox"/> B. _____ C. _____ D. _____ E. _____ (other) Price preference of N/A percent.
4		OPTIONAL PRE-BID CONFERENCE Date: _____ Time: _____ Location: _____
5		OR EQUAL INTERPRETATION
6	<input checked="" type="checkbox"/>	QUESTIONS: Technical Contact: Troy D. Jones - 240-777-5369 TroyDJones@montgomerycountymd.gov Non-Technical Contact: Penny Karakaya - (240) 777-9925 Penny.karakaya@montgomerycountymd.gov
7		SAMPLES
27		SERVICES CONTRACT (see "NOTICE TO BIDDERS" for website of the current wage rate)
28		CONSTRUCTION CONTRACT (see Attachment D)
29	<input checked="" type="checkbox"/>	LOCAL BUSINESS PREFERENCE (LBP) https://www.montgomerycountymd.gov/pro/dbrc/L.BPP.html

All provisions in the solicitation, including Section A, numbers 8 through 26 and 30, shall be applicable to any contract awarded as a result of this solicitation.

SECTION B – GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR
All provisions in this section shall be applicable to any contract awarded as a result of this solicitation. The correct insurance requirements for this solicitation are listed (in Table ___ of Provision 21) or in **Appendix to Section B**. These requirements supersede those listed in Provision 21 of the General Conditions between County and Contractor)

SECTION C – SPECIAL TERMS AND CONDITIONS
The following checked (X) provisions shall be applicable to any contract awarded as a result of this solicitation.

1	<input checked="" type="checkbox"/>	ADD OR DELETE
2	<input checked="" type="checkbox"/>	ANNUAL PRICE ADJUSTMENT A. <input checked="" type="checkbox"/> Commodity/Service Group: _____ B. _____ All Items
3		CATALOG DISCOUNT PRICES
4		CATALOG/PRICE LIST REQUIREMENTS
5		CERTIFICATE OF ORIGIN
6		CLEANING OF SITE
7	<input checked="" type="checkbox"/>	CONTRACT ADMINISTRATOR
8	<input checked="" type="checkbox"/>	CONTRACT TERM <input checked="" type="checkbox"/> A. _____ B. Other: _____
9		CONTRACT VALUE
10		CONTRACTOR RESPONSE
11		CORRECTION OF WORK AFTER FINAL PAYMENT
12		CORRECTION OF WORK BEFORE FINAL PAYMENT
13	<input checked="" type="checkbox"/>	DAMAGE/SHORTAGE
14		DEALER STATUS
15	<input checked="" type="checkbox"/>	DELAYS AND EXTENSION OF TIME
16	<input checked="" type="checkbox"/>	DELIVERY INSTRUCTIONS
17	<input checked="" type="checkbox"/>	DEPARTMENTS AUTHORIZED TO USE CONTRACT(S) Department of General Services – Division of Facilities Management
18		EQUIPMENT PREPARATION
19		ESTIMATES
20	<input checked="" type="checkbox"/>	FAILURE TO PERFORM/DELIVER

21		HEAVY DUTY
22	<input checked="" type="checkbox"/>	INVOICES ATTN: Troy D. Jones Emailed to <u>DFMVENDORINVOICES@MONTGOMERYCO</u> <u>UNTYMD.GOV</u> All true and correct copies of invoices and all inquiries regarding payment must be directed to the above address. Failure to comply with this requirement may delay payment.
23		LABOR COSTS
24		MANUALS
25	<input checked="" type="checkbox"/>	MATERIAL AND WORKMANSHIP
26		MATERIALS
27	<input checked="" type="checkbox"/>	METHOD OF ORDERING
28		MULTIPLE AWARDS
29	<input checked="" type="checkbox"/>	NET PRICES
30	<input checked="" type="checkbox"/>	NEW MATERIALS

31		OPTION TO INCREASE QUANTITIES
32	<input checked="" type="checkbox"/>	ORDERING TERMS
33		PARTS/SERVICE
34		PAYMENTS
35		PERFORMANCE BOND: In the amount of ___ is required.
36		(this provision has been intentionally left blank)
37		PROTECTION OF EXISTING FACILITIES
38	<input checked="" type="checkbox"/>	PURCHASE OF GOODS BY NON-PROFIT ORGANIZATIONS
39		PURCHASE ORDERS/JOB RELEASES
40	<input checked="" type="checkbox"/>	QUANTITIES
41	<input checked="" type="checkbox"/>	SAFETY STANDARDS
42		SERVICE
43		SITE INSPECTION
44		TRAVEL TIME
45		WARRANTY
46	<input checked="" type="checkbox"/>	CONTRACT ADMINISTRATOR

MANDATORY SUBMISSIONS:

a. **BID SUBMISSIONS:**

The following checked (XX) items (each of which is described in detail in Section A, B, C, or D) and any related attachments to this solicitation must be submitted with your bid reply:

XX "SOLICITATION, BID AND AWARD SHEET" (including page E and pages E-1 EXCEL Quotation Sheet(s))

- Current Manufacturer catalog(s) Descriptive Literature Other:
 Price List(s) **Delivery Schedule (must respond in Excel attachment)** Bid Guarantee (see pages A & 1)
 Wage Requirements Certification (see "NOTICE TO BIDDERS" for website providing the current wage rate) and (See Attachment C)

Failure to submit the mandatory bid submissions may be cause for your bid to be deemed nonresponsive.

(Bidders Must Complete the **NAME & SIGNATURE REQUIREMENTS** in Part II on the Solicitation, Bid and Award Sheet, Page E)

b. **AWARD SUBMISSIONS:**

The following checked (XX) items (each of which is described in detail in Section A, B, C, or D) and any related attachments to this solicitation, must be submitted within ten (10) working days after the date of the County's written notification of Intent to Award a Contract:

XX Minority, Female, Disabled Person Subcontractor Performance Plan. (Attachment B), if requested in the Intent to Award notice.

- Local Business Subcontract Plan (Attachment F), if requested in the Intent to Award notice.
 Financial Data Personnel Data
 Company Profile (See Attachment I) Plans or Drawings
 Other: as follows: _____ Performance Bond (See Pages B & 10)

Certificate of Insurance (see page 6, paragraph #21) and Mandatory Insurance Requirements contained in Appendix to Section B or Insurance Table . Awardee must provide the applicable insurance coverage and all costs for this XX coverage must be calculated into your bid price.

 Wage Requirements Certification of Posting Notice
Failure to submit information in a timely manner as indicated may be cause to consider the Bidder non responsible.

OPTIONAL SUBMISSIONS

The following checked (XX) items (each of which is described in detail in Section A, B, C, or D) and any related attachments to this solicitation), are **requested to be submitted with your bid reply:**

XX Minority, Female, Disabled Person Subcontractor Performance Plan (See Attachment B)
(To ensure a contract can move forward as a result of this solicitation, the plan needs be submitted with your bid.)

XX Mid-Atlantic Purchasing Team Rider Clause (See Page D)

XX References (See Below)

XX Minority Business Program & Offeror's Representation (Attachment A)

 Local Business Subcontract Plan (Attachment F)

XX Price Lists (Contingent items not part of method of award)

REFERENCES (at least three are requested to be submitted)

If references are required (see Optional Submissions section) for this solicitation, please provide them to the County with your bid. The three references must be from individuals or firms currently being serviced or supplied under similar contracts, or for whom work of a similar scope has been performed within the last year. Names for references shall be of individuals who directly supervised or had direct knowledge of the services or goods provided.

If you do not include them with your bid submission, and you are one of the three low bidders, you may be required to submit references within ten (10) days' notice from the County. Failure to provide the County with references within that time frame may result in the Bidder being ruled nonresponsive or nonresponsive by the Director, Office of Procurement or his/her designee and the forfeiture of your bid guarantee (if applicable).

1. Name of Firm: Montgomery County MD Public Schools
 Address: 850 Hungerford Drive City: Rockville ST: MD Zip: 20850
 Contact Person: Layla A Bowers Phone: 240-740-7536
 Email Address: laly_a_bowers@mcpsmd.org

2. Name of Firm: Rutherford County Board of ED TN Darryl Turnage 615-663-7543
 Address: 2240B Southpark Drive City: Murfreesboro, ST: TN Zip: 37128
 Contact Person: Darryl Turnage Phone: 615-663-7543
 Email Address: turnaged@rcsschools.net

3. Name of Firm: Lehigh County Schools Joint Purchasing Board, PA, Kay Paul 610-799-1337
 Address: 4500 Education Park Drive City: Schnecksville ST: PA Zip: 18078
 Contact Person: Kay Paul Phone: 610-799-1337
 Email Address: paulk@lcti.org

MID-ATLANTIC PURCHASING TEAM RIDER CLAUSE

USE OF CONTRACT(S) BY MEMBERS COMPRISING MID-ATLANTIC PURCHASING TEAM COMMITTEE

- A. Extension to Other Jurisdictions**
The [issuing jurisdiction] extends the resultant contracts(s), including pricing, terms and conditions to the members of the Mid-Atlantic Purchasing Team, as well as all other public entities under the jurisdiction of the United States and its territories.
- B. Contract Agreement**
Any jurisdiction or entity using the resultant contract(s) may enter into its own contract with the successful Contractor(s). There shall be no obligation on the part of any participating jurisdiction to use the resultant contract(s). Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to the jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue.
- C.** A negative reply will not adversely affect consideration of your bid.
- D.** It is the awarded offeror's responsibility to notify the members shown below of the availability of the Contract(s)
- E.** The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to the jurisdiction by the awardee.
- F. Inclusion of Governmental and Nonprofit Participants (Optional Clause)**
This shall include but not be limited to private schools, Parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government and/or state community and/or private colleges/universities that require these goods, commodities and/or services.
- G. Notification and Reporting**
The Contractor agrees to notify if requested by the issuing jurisdiction of those entities that wish to use any contract resulting from this solicitation and will also provide usage information, which may be requested. The Contractor will provide the copy of the solicitation and resultant contract documents to any requesting jurisdiction or entity.

MID-ATLANTIC PURCHASING TEAM:

YES	NO	JURISDICTION	YES	NO	JURISDICTION
X		Alexandria, Virginia	X		Howard County Schools
X		Alexandria Public Schools	X		Herndon, Virginia
X		Alexandria Sanitation Authority	X		Leesburg, Virginia
X		Annapolis City	X		Loudoun County, Virginia
X		Anne Arundel County	X		Loudoun County Public Schools
		Anne Arundel Schools			Loudoun County Water Authority
X			X		
X		Arlington County, Virginia	X		Manassas, Virginia
X		Arlington County Public Schools	X		City of Manassas Public Schools
X		Baltimore City	X		Manassas Park, Virginia
X		Baltimore County Schools	X		MD-National Capital Park & Planning Comm.
X		Bladensburg, Maryland	X		Metropolitan Washington Airports Authority
X		Bowie, Maryland	X		Metropolitan Washington Council of Governments
X		BRCPC	X		Montgomery College
X		Carroll County	X		Montgomery County Public Schools
X		Carroll County Schools	X		Prince George's County, Maryland
X		Charles County Government	X		Prince George's Public Schools
X		Charles County Schools	X		Prince William County, Virginia
X		City of Fredericksburg	X		Prince William County Public Schools
X		College Park, Maryland	X		Prince William County Service Authority
X		District of Columbia Government	X		Rockville, Maryland
X		District of Columbia Schools	X		Spotsylvania County Govt. & Schools
X		District of Columbia Water & Sewer Auth.	X		Stafford County, Virginia
X		Fairfax County, Virginia	X		Takoma Park, Maryland
X		Fairfax County Water Authority	X		Upper Occoquan Sewage Authority
X		Falls Church, Virginia	X		University of the District of Columbia
X		Fauquier County Schools & Govt., Virginia	X		Vienna, Virginia
X		Frederick, Maryland	X		Washington Metropolitan Area Transit Auth.
X		Gaithersburg, Maryland	X		Washington Suburban Sanitary Commission
X		Greenbelt, Maryland	X		Winchester, Virginia
X		Harford County	X		Winchester Public Schools
X		Harford County Schools			
X		Howard County			

Brookarie Company, LLC

Vendor's Name

IFB # 1161647	MONTGOMERY COUNTY, MARYLAND HVAC MERV-13 AIR FILTERS SOLICITATION, BID AND AWARD SHEET	RETURN BID TO: OFFICE OF PROCUREMENT 27 Courthouse Square, Suite 330, Rockville, MD 20850
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PART I: SOLICITATION (Invitation for Bids (“IFB”))

ELECTRONIC BIDS SUBMITTED TO FURNISH THE SUPPLIES AND/OR SERVICES DESCRIBED ON THE ATTACHED QUOTATION SHEET(S), WILL BE RECEIVED UP TO **11:00 am LOCAL TIME ON 12 /15 /2023**. Microsoft Teams meeting **Join on your computer, mobile app or room device**
Click here to join the meeting Meeting ID: 214 533 926 12 Passcode: eQG9ym **Or call in (audio only)**
 +1 443-692-5768,,954427525# United States, Phone Conference ID: 954 427 525# BIDS WILL BE PUBLICLY OPENED AT THE DATE AND TIME STATED.

BIDS RECEIVED AFTER THE DATE AND TIME SPECIFIED WILL NOT BE CONSIDERED AND WILL BE DENIED BY THE BIDNET APPLICATION. THE FOLLOWING DOCUMENTS ARE HEREBY INCORPORATED BY REFERENCE INTO AND MADE PART OF ANY CONTRACT AWARDED. In the event of any conflict among the provisions of the bid documents, or those documents comprising the resultant Contract, the conflict must be resolved by giving precedence to the below documents in the following order:

1. The “General Conditions of Contract between County and Contractor”, and the “Special Terms and Conditions” shown in Sections B and C of this document.
2. The “Instructions, Conditions and Notices” shown in Section A of this IFB.
3. The specifications/scope of work shown in Section D of this document.
4. All solicitation amendments that change Section D will supersede in the event of a conflict.
5. All representations and certifications listed in this document.
6. This “Solicitation, Bid and Award Sheet” and the attached solicitation Quotation Sheet(s).

PART II-BID

The Bidder, by signing this solicitation, agrees that the County has 120 calendar days from the bid opening date in which to make an award of this solicitation. The Bidder agrees that its prices and/or discounts for all desired goods and/or services shall remain firm for the above time period prior to contract award. Also, the Bidder agrees that all instructions, terms, conditions, specifications, and amendments of this solicitation shall remain firm for the above time period prior to contract award. The County’s Standard Payment Terms are Net Thirty (30) Days. This does not preclude an offeror from offering a prompt payment discount for payment of proper invoices in less than (30) days. An optional prompt payment term is not required, but may be offered conditioned on the following basis: Only a prompt payment discount, conditioned on a thirty-day or greater payment basis, will be utilized to recalculate prices for purposes of the Method of Award process for price/cost only. Prompt payment discounts may be offered on a shorter payment basis and adopted by the County at time of award, but will not be considered during the Method of Award process. Only a bid from a Certified Small Business with Health Insurance that submits a certificate issued by Montgomery County Department of Health and Human Services at the time of bid submission will receive a % price preference that will be utilized to recalculate prices for purpose of the Method of Award process in accordance with the criteria stated under Procurement Regulation 11B.77.01.06; See Procurement Regulations at: www.montgomerycountymd.gov/PRO/Laws.html

NAME AND SIGNATURE REQUIREMENTS FOR BIDS AND CONTRACTS: The correct and full legal business name of the bidder must be used in bids received and on all contracts issued as a result of this solicitation. A trade name (i.e., a shortened or different name under which the firm does business) must not be used when the full legal name is different. Corporations must have names that comply with State Law, which requires a suffix indicating the corporate status of the business (e.g. Inc., Incorporated, etc.). Trade names may be indicated by individuals or corporations with the individual or corporate name followed by “/a” (trading as) or “d/b/a” (doing business as) respectively. The offeror’s signature on the proposal, contract, amendment(s), or related correspondence, must conform to the following:

All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of an offer or a contract is a representation by the person signing that the person signing is authorized to do so on behalf of the offeror or contractor.

BIDDER'S CORRECT AND FULL LEGAL BUSINESS NAME: Brookire Company, LLC		TELEPHONE NO.: 973-473-7527
ADDRESS: 46 Whelan Road, East Rutherford, NJ 07073 and 581 Manchester Road, York, PA 17408		TOLL FREE NO.:
REMITTANCE ADDRESS: (If Remittance Address is Different from Above Address) 46 Whelan Road, East Rutherford, NJ 07073		FAX NO.: 973-473-3445
BIDDER'S E-MAIL ADDRESS: cheryl@brookaire.com		

ACKNOWLEDGEMENT OF AMENDMENTS	
The bidder acknowledges receipt of amendments to the solicitation for offers and related documents numbered and dated as follows:	
Amendment No./Date	Amendment No./Date

Cheryl L Morman Finance Manager	
NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (TYPE OR PRINT):	
	December 14, 2023
SIGNATURE OF ABOVE PERSON:	DATE:

PART III: AWARD (TO BE MADE BY THE COUNTY'S CONTRACTING OFFICER (OFFICE USE ONLY))

YOUR BID IS ACCEPTED AS TO THE FOLLOWING AND/OR AS ATTACHED TO THIS DOCUMENT:		YOUR CONTRACT NUMBER IS:
		1161647
MONTGOMERY COUNTY, MARYLAND Penny Karakaya		2/6/2024
PRINTED NAME OF CONTRACTING OFFICER	SIGNATURE OF CONTRACTING OFFICER	AWARD DATE

THIS FORM HAS BEEN APPROVED AS TO FORM AND LEGALITY BY THE OFFICE OF THE COUNTY ATTORNEY

IFB #1147766

QUOTATION SHEET

HVAC MERV-13 AIR FILTERS

PLEASE USE EXCEL SHEET

BIDDER MUST BID EACH ITEM IN ORDER TO BE ELIGIBLE FOR AN AWARD

GROUP I – Pre-Pleated 40 Filters

MEDIA: synthetic or high loft, non-woven recycled material sealed to prevent air by-pass.

CAPACITY: standard 'V' pleat per MERV 13 efficiency prescribed by ASHRAE 52.2 – 2012) arrestance $\geq 90\%$.

FRAME: moisture resistant clay coated board made from recyclable material.

SUPPORT: diamond shaped expanded metal grid on discharge side to prevent flutter and diagonal and horizontal support member for full frame strength. Media to be glued to support to maintain optimum airflow.

DEPTH: 1-, 2- or 4-inch nominal

MAXIMUM TEMPERATURE: 180°F

FLAMMABILITY: UL 900 Class II

PRINTED ON FRAME: Each filter will be labeled with the nominal size, airflow direction arrow, bar-code, and UL label as a minimum.

SIZE: see chart.

MONTGOMERY COUNTY, MARYLAND
OFFICE OF PROCUREMENT

MONTGOMERY COUNTY, MARYLAND
OFFICE OF PROCUREMENT

SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES

(Numbers 1-7, 27, 28 and 29 are subject to selection on Bid Cover Sheet)

1. BID GUARANTEE

A Bid Guarantee (Bid Bond or Irrevocable Letter of Credit), must accompany each Bid and be duly executed by the Bidder as a principal, and made payable to Montgomery County. See the Bid Cover Sheet for the amount required for the Bid Guarantee for this particular bid. A copy of the Bid Guarantee must be submitted electronically, in PDF format, with your Bid. Prior to award, the successful Bidder(s) must present an original copy of the Bid Bond or Irrevocable Letter of Credit to the Office of Procurement, 27 Courthouse Square, Suite 330, Rockville, MD 20850. The County reserves the right of approval of any instrument offered as Bid Guarantee.

2. INTENT

A. The Intent of this Invitation for Bids is to establish a Fixed Price or Rate of Discount Contract for the purchase of goods/services for Montgomery County, Maryland, as per the Terms, Conditions, Specifications, and/or Scope of Work, and Quotation Sheet contained herein.

B. The Intent of the Invitation for Bids is to establish a Time and Materials Contract(s) with a responsible Contractor(s) to complement County forces at various County facilities, as may be required and as may be directed by the Director, Office of Procurement, and as called for in the SCOPE OF WORK statement(s) attached. All work shall be performed by a Specialty Contractor of established reputation who is regularly engaged in the performance of the specified work and who maintains, and makes available for this purpose, a regular force of skilled workmen.

3. METHOD OF AWARD

A. The contract will be awarded to the responsible bidder submitting the lowest responsive bid, as determined by the Director, Office of Procurement. The lowest bidder is determined by the aggregate amount of the unit prices extended by the quantities set forth on the Quotation Sheet. Bidders must bid each item in order to be eligible for an award.

B. The contract will be awarded by group to the responsible bidder submitting the lowest responsive bid, as determined by the Director, Office of Procurement. The lowest bid is determined by the aggregate amount of the unit prices extended by the quantities set forth in each group on the Quotation Sheet. Bidders must bid each item within a particular group in order to be eligible for an award for the group itself.

C. The contract will be awarded to the responsible bidder submitting the lowest responsive bid, as determined by the Director, Office of Procurement. The lowest bidder is determined by the lowest unit price bid.

D. The contract will be awarded by line item to the responsible bidder submitting the lowest responsive bid, as determined by the Director, Office of Procurement.

E. The contract will be awarded by any other Method of Award as stated on the Bid Cover Sheet.

Regardless of which Method of Award is selected for this bid (Items A-E), THE DIRECTOR, OFFICE OF PROCUREMENT, reserves the right to award a contract by individual items, in the aggregate, or in any combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County.

Additionally, bidders are hereby notified that the Montgomery County Code, Section 11B-56 concerning the procurement of recycled materials and supplies is applicable to this solicitation. The Code requires, where practicable, procurement by the County of materials and supplies recycled from solid waste, and authorizes the use of a percentage price preference. The percentage price preference for this solicitation is stated on the Bid Cover Sheet of this particular bid.

Recycled Material as defined by Section 11B-56 means "material recovered from or otherwise diverted from the waste stream, including recycled paper. It includes post-consumer waste, industrial scrap material and obsolete inventories..." A percentage price preference means "the percentage by which a responsive bid from a responsible bidder whose product contains recycled materials (or a greater use of recycled materials) may exceed the lowest responsive bid submitted by a responsible bidder whose product does not contain recycled materials (or a lesser use of recycled materials)."

Bidders offering recycled products as defined by the County Code are cautioned that in order to be eligible for the price preference, the County must be aware at bid opening that the product being offered is recycled. Failure to provide specifications and/or other documentation at bid opening indicating that the product being offered is recycled may result in the bidder not receiving the price preference.

Bidders are also advised that a decision on use of a specification for a good containing recycled materials or a percentage price preference is within the sole discretion of the County and may not be appealed.

4. OPTIONAL PRE-BID CONFERENCE(S)

One or more optional Pre-Bid Conference(s) will be held. It is optional, though highly recommended that prospective bidders attend the pre-bid conference(s). For information regarding the date, time, and place of the conference(s), see the Bid Cover Sheet.

5. OR EQUAL INTERPRETATION

Unless stated otherwise in the Scope of Services, identification of an item by manufacturer's name, trade name, catalog number, or reference is intended to be descriptive but not restrictive in that it is used for the purpose of describing the type, style, quality, performance and minimum specifications of the product desired, and shall not be interpreted to mean the only acceptable product. Bids on other makes and/or models will be considered provided the bidder clearly states in the spaces provided in the Quotation Sheet what is being proposed and forwards with the bid complete descriptive literature indicating the character of the article being offered and addressing all specifications of this solicitation.

The County reserves the right to accept or reject, in its sole discretion, items offered as an "equal".

6. QUESTIONS

All technical and non-technical questions pertaining to this Invitation for Bids should be directed to the individuals whose names are indicated on the Bid Cover Sheet.

7. SAMPLES

When samples are required it will be so indicated. Samples must be submitted so as to arrive at the designated location prior to the opening of bids and must be identified with the NAME OF BIDDER, BID NUMBER AND BID ITEM NUMBER. Failure to properly identify samples may cause bid to be considered nonresponsive. Samples shall be free of charge and delivered at the bidder's expense. The County will have the right to destroy, alter, or mutilate samples in examination for specification or performance compliance without charge from bidder. Samples may be removed within ten (10) days

after award. Samples may at the County's option be retained for the life of any subsequent contract period.

8. ACCEPTANCE TIME

By submission of an offer under this solicitation, the offeror agrees that the County has 120 days after the opening date in order to issue an award. The County reserves the right to reject, as nonresponsive, any offer that specifies less than 120 days of acceptance time. Upon mutual agreement between the County and the Offeror, the acceptance time for the Offeror's bid may be extended.

9. ALTERNATE OFFERS

Bidders must bid only one (1) product and one (1) price per bid item even though they feel they can offer more than one item that will meet the specifications. Bidders must determine for themselves which to offer. If a bidder submits more than one (1) product and/or more than one (1) price for a given bid item or items, it may be cause for the item or items bid upon to be considered non-responsive and rejected.

10. AWARD OR REJECTION OF BID

- A. Failure to submit requested data, surety, or other documents in the electronic bid submission as may be required herein may be cause for rejection of the bid.
- B. The County reserves the right to accept or reject any or all bids, or portion thereof, to give an offeror an opportunity to cure any deficiency resulting from a minor irregularity in a bid or to waive the deficiency, whichever is to the advantage of the County, and to award the Contract in the best interest of the County. The decision of the Director with respect to whether a defect is a minor informality is made in the sole discretion of the Director and is not subject to review and may not be challenged by a bidder.
- C. Conditional or qualified bids are subject to rejection.
- D. The County reserves the right to reject the bid of a bidder who has previously failed to perform properly or to complete in a timely manner, contracts of a similar nature, or if investigation shows the bidder unable to perform the requirements of the contract.

11. BID PREPARATION EXPENSES

All costs incurred in the preparation and submission of bids will be borne by the bidder and shall not be incurred in anticipation of receiving reimbursement from the County.

12. BID PROTESTS

All protests made pursuant to this solicitation must be in writing and delivered to the Director, Office of Procurement: (a) within ten (10) calendar days after the Director, Office of Procurement, publicly posts the proposed contract award, if the bidder seeks as a remedy the award of the contract or costs under Section 11B-36(h) of the Montgomery County Code, or (b) before the submission date for bids, if the bidder seeks as a remedy the cancellation or amendment of the solicitation. **Each protest must contain a protest filing fee in the amount of \$500 (US currency); if the fee is paid by check, then the check must be made out to "Montgomery County Government". The Director, Office of Procurement, may return the filing fee to the protesting bidder, if the protest is sustained.** The Director, Office of Procurement, must dismiss any protest not timely received.

Only an "aggrieved" bidder may file a protest. Aggrieved means that the bidder who is filing the protest may be eligible for an award of the contract if the protest is sustained (e.g., a fourth ranked bidder is not aggrieved unless the grounds for a protest, if sustained, would disqualify the top three ranked bidders or would require that the solicitation be reissued).

Each protest must contain the following: identification of the solicitation; the name, address, email address, fax and telephone numbers of the protesting offeror; a statement supporting that the bidder is aggrieved; and specification of all grounds for the protest, including submission of detailed facts and all relevant documents, citation to relevant language in the solicitation, regulations, or law relied upon; and, all other matters which the bidder

contends supports the protest. The burden of production of all relevant evidence, data, and documents, and the burden of persuasion, to support the protest is on the bidder making the protest.

13. BID WITHDRAWAL/MODIFICATION

Vendor can withdraw and make edits to a bid before a solicitation's closing date and time. To withdraw your bid, log into www.bidnetdirect.com/maryland/montgomerycounty and click "Solicitations" then "Bid Management" and follow the withdrawal process. If you need help withdrawing your bid, please call BidNet Direct's Support Department at 800-835-4603, Option 2. The bidder's withdrawal and resubmission must occur before the closing date and time.

14. BIDDER'S PAYMENT TERMS

The County will reject as nonresponsive a bid under this solicitation, which is conditioned on payment of proper invoices in less than thirty (30) days. The County's Standard Payment Terms are Net Thirty (30) Days. This does not preclude an offeror from offering a prompt payment discount for payment of proper invoices in less than thirty (30) days. An optional prompt payment term is not required, but may be offered conditioned on the following basis: Only a prompt payment discount conditioned on a thirty-day or greater payment basis will be utilized to recalculate prices for purposes of the Method of Award process for price only. Prompt payment discounts may be offered on a shorter payment basis and adopted by the County at time of award, but will not be considered during the Method of Award process.

15. BIDS

Bidder must electronically submit their bid through www.bidnetdirect.com/maryland/montgomerycounty no later than the due date and time as indicated on Page A and Page E. Bidders must register with BidNet Direct in order to view and respond to this solicitation. Visit www.bidnetdirect.com and click on the link to register at no charge. Follow the registration path and select the "Limited Access" option which will provide you with an automatic e-mail notification at no charge. If you need help registering, please call BidNet Direct's Support Department at 800-835-4603, Option 2.

Information regarding the bid results (apparent low bidder) for this bid or any bid issued by the Montgomery County Office of Procurement, will be posted on Montgomery County's website at: <https://www.montgomerycountymd.gov/PRO/solicitations/proposed-awardees.html>

16. ERRORS IN BIDS

- A. Failure of the bidder to thoroughly understand all aspects of the Invitation for Bids before submitting the bid will not act as an excuse to permit withdrawal of the bid nor secure relief on pleas of error.
- B. The unit price will govern in the event of a discrepancy between the unit price bid and the extended price.
- C. The sum of the extended prices will govern in the event of a discrepancy between the aggregate total bid and the extended prices.
- D. The written words will govern in the event of a discrepancy between the prices written in words and the prices written in figures.

17. JOINT PROCUREMENT (Optional Use of the Contract)

The following entities within Montgomery County must be able to purchase directly from contracts resulting from this solicitation:

Maryland-National Capital Park & Planning Commission (M-NCPPC)
Montgomery College (MC)
Montgomery County Public Schools (MCPS)
Montgomery County Revenue Authority
Montgomery County Housing Opportunities Commission (HOC)
Washington Suburban Sanitary Commission (WSSC)
Municipalities & Special Tax Districts in Montgomery County.

While this IFB is prepared on behalf of Montgomery County, it is intended to apply for the benefit of the above-named entities as though they were expressly named throughout the document. Each of these entities may purchase from the successful vendor under the same prices and goods and/or

services of the contract with Montgomery County, in accordance with each entity's respective laws and regulations, or an entity may choose not to procure from the successful bidder at the entity's sole discretion. If one of the above-named entities elects to purchase under the contract, the price shall be determined by using unit costs and other pertinent costs that are provided in the bid. Montgomery County shall not be held liable for any costs, payments, invoices, or damages incurred by the above jurisdictions. Each entity above will be solely responsible for and contract directly with the bidder under the entity's own procurement laws and regulations. ANY SPECIAL DISCOUNTS UNIQUE TO A PARTICULAR ENTITY (e.g. Montgomery County Public Schools educational discounts) SHOULD BE OFFERED TO THAT ENTITY.

18. MINORITY, FEMALE, DISABLED PERSON PROGRAM COMPLIANCE

Under County law, this solicitation is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority, Female, Disabled Person (MFD) Procurement Program. Further information regarding the County's MFD program is contained within this solicitation (see the provision entitled "Minority-Owned Business Addendum to the General Conditions of Contract between County and Contractor" and its companion document entitled "Minority, Female, and Disabled-Person Subcontractor Performance Plan").

19. MONTGOMERY COUNTY CODE AND PROCUREMENT REGULATIONS

The Montgomery County Code and Procurement Regulations are applicable to this solicitation and any contract awarded pursuant to this solicitation.

20. NAME AND SIGNATURE REQUIREMENTS FOR BIDS AND CONTRACTS

The correct and full legal business name of the entity involved must be used on bids received and on contract(s) issued as a result of this solicitation. A trade name, i.e., a shortened or different name under which the firm does business, must not be used when the full legal name is different. Corporations must have names that comply with State law, which requires a suffix indicating the corporate status of that business (e.g., Inc., Incorporated, etc.). Trade names may be indicated by individuals or corporations with the individual or corporate name followed by "t/a" (trading as) or "d/b/a" (doing business as), respectively. The signature on the bid, contract, amendment, or related correspondence must conform to the following:

All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of an offer or a contract is a representation by the person signing that the person signing is authorized to do so on behalf of the offeror or contractor.

21. PROMPT PAYMENT DISCOUNT TERMS

Bidders please note: Prompt payment discounts will be considered in the evaluation of your bid if the discount on payments is not conditioned on payment being made in less than thirty (30) days from receipt of invoice.

22. PROPRIETARY & CONFIDENTIAL INFORMATION

This is to notify prospective bidders that the County has unlimited data rights regarding bids submitted in response to its solicitations. Unlimited data rights means that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by offerors in response to this or any solicitation issued by the County. However, information that is deemed to be confidential commercial or financial information as defined by the Maryland Information Act, State Government Article §10-617, will be exempted from disclosure if the submitter can show that release of such information would cause substantial competitive harm to the submitter.

It is the responsibility of the bidder to clearly identify each part of his/her offer that it believes is confidential commercial or financial information by stamping the bottom right hand corner of each pertinent page with one inch bold face letters stating the words "confidential" or "proprietary". The bidder agrees, with regard to any portion of the bid that is not stamped "proprietary" or "confidential" that it believes, and expressly permits, the County to deem it not to be proprietary or confidential.

23. PUBLIC POSTING

Of particular importance is the fact that the notice of a decision to make an award will be accomplished by a posting of the proposed contract awardee on a public list located in the Office of Procurement, 27 Courthouse Square, Suite 330, Rockville, Maryland 20850.

The time period for appeal contained in Section 11B-36 commences THE DAY FOLLOWING the date of the posting.

It is the responsibility of the offerors to keep informed of the current status of any proposed awardees for contracts in which they are interested, as per Section 3.2.2 of the Procurement Regulations.

Information regarding the proposed awardee(s) under this bid or any bid issued by the Montgomery County Office of Procurement will be posted on Montgomery County's website at: <https://www.montgomerycountymd.gov/PRO/solicitations/proposed-awardees.html>

24. QUALIFICATION OF BIDDERS

Bidders may be required to furnish satisfactory evidence that they are qualified dealers or manufacturers of the items listed, or are regularly engaged in performing the services on which they are submitting a bid, and in both cases maintain a regularly established place of business. An authorized representative of the County may visit and inspect any prospective Contractor's plant, manufacturing facility or place of business, etc. where the goods, services or construction are performed to determine ability, capacity, reliability, financial stability, and other factors necessary to perform the contract. The County may visit and inspect any prospective Contractor's use of a Subcontractor's plant, manufacturing facility or place of business, etc. where the goods, services or construction are performed to determine ability, capacity, reliability, financial stability, and other factors necessary to perform the contract. In both instances above, the information gathered on the visit and inspection on the Contractor or its Subcontractor(s) may be used by the County to determine the responsibility of a Bidder.

If so requested, a bidder may be required to submit information about its reputation, past performance, business, and financial capability, and other factors that demonstrate that the bidder is capable of satisfying the County's needs and requirements for this solicitation.

25. SOLICITATION AMENDMENTS

In the event that an amendment to this solicitation is issued, all solicitation terms and conditions will remain in effect unless they are specifically changed by the amendment. Bidders are responsible for checking the website at <https://www.montgomerycountymd.gov/PRO/solicitations/formal-solicitations.html> periodically to remain informed of any solicitation amendments.

BIDDERS MUST ACKNOWLEDGE RECEIPT OF SUCH SOLICITATION AMENDMENTS, to the place designated, and prior to the hour and date specified in the solicitation (as amended) for receipt of Bids. UNLESS A WAIVER IS GRANTED, BIDDERS THAT DO NOT TIMELY ACKNOWLEDGE RECEIPT OF SOLICITATION AMENDMENTS BY ONE OF THE FOLLOWING METHODS WILL BE REJECTED:

- (a) by acknowledging receipt of the amendment on the Solicitation, Bid and Award sheet submitted.
- (b) by a signed statement that the amendment is acknowledged which indicates the solicitation and amendment numbers, and is submitted with the bid or prior to the bid due date and time.

A waiver may be granted by the Director, Office of Procurement, if it is deemed to be in the County's best interest. No waiver may be granted, however, until the bidder states in writing that the bidder will be bound by any substantive changes made by the amendment to the terms of the solicitation. If a bidder desires to change a bid that has already been submitted, the bidder can withdraw and make edits to a bid before a solicitation's closing date and time. To withdraw your bid, log into

www.bidnetdirect.com/maryland/montgomerycounty and click "Solicitations" then "Bid Management" and follow the withdrawal process. If you need help withdrawing your bid, please call BidNet Direct's Support Department at 800-835-4603, Option 2. The bidder's withdrawal and resubmission must occur before the closing date and time.

26. VERBAL EXPLANATIONS

Verbal explanations or instructions given by a Montgomery County employee to an offeror in regard to this solicitation are not binding on the County. Any information given to a bidder, in response to a request, will be furnished to all bidders as an amendment to this solicitation, if such information is deemed necessary for the preparation of bids, or if the lack of such information would be detrimental to the uninformed bidders. Only such amendments, when issued by the Director, Office of Procurement, will be considered as being binding on the County.

27. SERVICES CONTRACT (County Code 11B-33A)

Under County law, a solicitation for a contractor to provide services is subject to the Montgomery County Code regarding compliance with certain wage requirements payable to the Contractor's employees. Additional information regarding the County's wage requirements is contained within this solicitation (see the provision entitled "Wage Requirements for Services Contracts Addendum to the General Conditions of Contract between County and Contractor" and its companion documents entitled "Wage Requirements Certification" and "501(a)(3) Non-profit organization's Employee's Wage and Health Insurance Form). If a bidder fails to submit and complete the required material information on the Wage Requirements Certification form, its bid may be deemed unacceptable under County law and may be rejected for nonresponsiveness.

28. PREVAILING WAGE (County Code §§11B-33C, and 20-75)

The Prevailing Wage Law applies to all construction contracts and to mechanical systems services contracts that meet minimum threshold contract values. Unless otherwise excluded by County law, a County-financed construction contract and a mechanical systems service contract that meet minimum threshold contract values are subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the provision entitled "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor").

An aggrieved employee is a third-party beneficiary of this Contract and the employee may, by civil action, recover the difference between the prevailing wage for the type of work performed and the amount actually received, with interest and a reasonable attorney's fee.

29. LOCAL BUSINESS PREFERENCE (LBP)

Only a Bidder who: (1) has a valid local business certification when the business submits a timely proposal; or (2) has applied for local business certification prior to the due date/time to submit a proposal, will receive a 10 percent price preference with a ceiling of \$200,000, in accordance with Executive Regulations 13-20. Also, refer to: <https://www.montgomerycountymd.gov/pro/dbr/LBPP.html>.

30. TIE BIDS

In conjunction with the bid's selected method of award (Section A.3.), tie bids will be resolved by making a proposed award of the contract(s) to the bidder who has its principal place of business in Montgomery County, Maryland. If bids are still tied, then the tie will be resolved in accordance with the criteria in the order stated under Procurement Regulation 4.1.1.4(e).

(Section A: Items 1 - 30, Revision Date 07/2022)

SECTION B - GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first tier subcontracts.

2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5.

3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. Through signature of this contract, the contractor certifies that the contractor has filed an initial statement with the Maryland State Board of Elections in compliance with MD Code Ann., Election Law, §14-104(b)(1), or is not required to file an initial statement as per MD Code Ann., Election Law, §14-104(c)(2).

For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The County's prevailing wage law, as found at §11B-33C of the County Code, applies to certain construction and mechanical systems service contracts. To the extent applicable, the County's prevailing wage requirements are enumerated within this solicitation/contract in the "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor." If applicable to this contract, the Addendum will be attached to the contract, and will be incorporated herein by reference, and made a part thereof.

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Md. State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees,

against the contractor or one of its subcontractors for retaliation in violation of that Section.

The contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

Montgomery County's Earned Sick and Safe Leave Law, found at Sections 27-76 through 27-82 of the County Code, became effective October 1, 2016. An employer doing business in the County, as defined under the statute, must comply with this law. This includes an employer vendor awarded a County contract. A vendor may obtain information regarding this law at <http://www.montgomerycountymd.gov/humanrights/>

4. ASSIGNMENTS AND SUBCONTRACTS

The contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests. The contractor must not employ any subcontractor that is a debarred or suspended person under County Code §11B-37. The contractor is fully responsible to the County for the acts and omissions of itself, its subcontractors and any persons either directly or indirectly employed by them. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the County, and nothing in the contract documents is intended to make any subcontractor a beneficiary of the contract between the County and the contractor.

5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

6. CONTRACT ADMINISTRATION

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Office of Procurement;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

9. DOCUMENTS, MATERIALS, AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code. In addition, the contractor must comply with the political contribution reporting requirements currently codified under the Election Law at Md. Code Ann., Title 14.

13. GUARANTEE

- A Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowingly the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage or other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the minimum insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. The minimum limits of coverage listed shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County, nor shall failure by the County to request evidence of this insurance in any way be construed as a waiver of proposed awardee/contractor's obligation to provide the insurance coverage specified. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more

Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Contractor must provide to the County at least 30 days written notice of a cancellation of, or a material change to, an insurance policy. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. After consultation with the Department of Finance, Division of Risk Management, the Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

Please disregard TABLE A. and TABLE B., if they are replaced by the insurance requirements as stated in an attachment to these General Conditions of Contract between County and Contractor.

TABLE A. INSURANCE REQUIREMENTS
(See Paragraph #21 under the General Conditions of Contract
between County and Contractor)

CONTRACT DOLLAR VALUES (IN \$1,000's)

	Up To <u>50</u>	Up To <u>100</u>	Up To <u>1,000</u>	Over <u>1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by				
Accident (each)	100	100	100	See Attach.
Disease (policy limits)	500	500	500	Attach.
Disease (each employee)	100	100	100	
Commercial General Liability for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300	500	1,000	See Attach.
Minimum Automobile Liability (including owned, hired and non owned automobiles)				
Bodily Injury				
each person	100	250	500	See Attach.
each occurrence	300	500	1,000	Attach.
Property Damage				
each occurrence	300	300	300	
Professional Liability* for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See Attach.

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
27 Courthouse Square, Suite 330
Rockville, Maryland 20850

*Professional services contracts only

TABLE B. INSURANCE REQUIREMENTS
(See Paragraph #21 under the General Conditions of Contract
between County and Contractor)

	Up To <u>50</u>	Up To <u>100</u>	Up To <u>1,000</u>	Over <u>1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attach.

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
27 Courthouse Square, Suite 330
Rockville, Maryland 20850

22. **INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT**

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

23. **INFORMATION SECURITY**

A Protection of Personal Information by Government Agencies:
In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

B Payment Card Industry Compliance:

In any contract where the Contractor provides a system or service that involves processing credit card payments (a "Payment Solution"), the Payment Solution must be Payment Card Industry Data Security Standard Compliant ("PCI-DSS Compliant"), as determined and verified by the Department of Finance, and must (1) process credit card payments through the use of a Merchant ID ("MID") obtained by the County's Department of Finance by and in the name of the County as merchant of record, or (2) use a MID obtained by and in the name of the Contractor as merchant of record.

24. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

25. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B 33 and Section 27 19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

26. PAYMENT AUTHORITY

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees, late fees, or shipping fees that are not provided for in the contract. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

27. P-CARD OR SUA PAYMENT METHODS

The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's p-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

28. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

29. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract,
 - (b) failing to make satisfactory progress in the prosecution of the contract; or
 - (c) endangering the performance of this contract.
- The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

30. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

31. TIME

Time is of the essence.

32. WORK UNDER THE CONTRACT

Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

33. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

PMMD-45, REVISED 07/2022

THIS PMMD-45 MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.

SECTION C - SPECIAL TERMS AND CONDITIONS

(Subject to selection on Bid Cover Sheet)

1. ADD OR DELETE

During the contract term, the County shall have the right to add or delete facilities to be served as may be considered necessary or desirable.

In the event the facilities are added, (except as provided herein) a mutually acceptable price for the routine service will be negotiated in a manner consistent with the contract terms. No payment will be made for facilities deleted.

2. ANNUAL PRICE ADJUSTMENT

Prices quoted are firm for a period of one year after execution of the contract. Any request for a price adjustment after this one-year period, is subject to the following:

- ♦ Approval or rejection by the Director, Office of Procurement or designee.

- ◆ Must be submitted in writing to the Director, Office of Procurement, and accompanied by supporting documentation justifying the Contractor's request. A request for any price adjustment may not be approved unless the contractor submits to the County sufficient justification to support that the Contractor's request is based on its net increase in costs in delivering the goods/services to the County under the contract terms.
- ◆ Must be submitted sixty (60) days prior to the contract expiration date, if the contract is being amended.
- ◆ May not be approved in an amount that exceeds the annual percentage change of the Consumer Price Index (CPI) for the twelve-month period immediately prior to the date of the request. The request must not exceed the CPI for all urban consumers issued for the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS, unless a commodity or service group is specifically stated on the Bid Cover Sheet.
- ◆ The County will approve only one price adjustment for each contract term, if a price adjustment is approved. Should be effective sixty (60) days from the date of receipt of the contractor's request.
- ◆ Must be executed by written contract amendment.

3. CATALOG DISCOUNT PRICES

Prices are to be quoted in terms of Percentage Discount from a Current Price List, inclusive of all charges for delivery as specified herein. "List" shall be manufacturer's published catalogs and price lists and/or Contractor's own published catalogs and price lists. Sources of "List Prices" are to be clearly described on the Quotation Sheet.

Price increases as may be reflected in newly published price lists will be honored upon notification in writing and approval of the Director, Office of Procurement or the designee. The discount quoted shall remain firm for the entire contract period.

4. CATALOGS/PRICE LIST REQUIREMENTS

It will be the responsibility of the successful Contractor to provide current, complete manufacturer's catalogs including current styles, models, numbers, and latest published price lists within ten (10) working days of written notification of the County's intent to award a contract. Such material must be provided before finalization of any documents.

Should the vendor fail to provide such materials, the County may consider the bidder as nonresponsive and proceed with award of contract to next lowest responsive bidder.

5. CERTIFICATE OF ORIGIN

Certificate of origin must be submitted with delivery of units. Units delivered without Certificate of Origin and Owner Warranty will not be accepted.

6. CLEANING OF SITE

The Contractor shall at all times, keep the premises free from accumulation of waste materials or rubbish caused by the work performed. Upon completion of the work, waste materials, rubbish, and tools, equipment, machinery and surplus materials shall be removed from and about the project (job). All building surfaces and work areas are to be left "broom clean."

7. CONTRACT ADMINISTRATOR

A Contract Administrator shall be designated by the Director, Office of Procurement or authorized representative. Along with the duties and responsibilities outlined in Provision 6 – Contract Administration of the General Conditions for Contract between County and Contractor, the Contract Administrator shall be responsible for:

- A. Instructing the Contractor of the details of work required including the labor and the material/equipment to be used;
- B. Approving the Contractor's maintained record of time and material used for the job. The Administrator must sign and date these records;
- C. Approving the rental of equipment and/or tools that may be considered "not customary" to the trade;

- D. Inspecting all work performed and authorizes payment upon acceptance.

The designated Contract Administrator for the Department of General Services is Gregory Boykin at Gregory.Boykin@montgomerycountymd.gov 240-777-5360. The Contract Administrator for any other department will be listed on the Purchase Order or the Contract Amendment.

8. CONTRACT TERM

- A The term of the contract is for 1 (one) year from the date of signature by the Director, Office of Procurement. Before the contract term ends, the Director may (but is not required to) renew this contract, if the Director determines that renewal is in the best interests of the County. The Contractor's satisfactory performance does not guarantee renewal of this Contract. The Director may exercise this option to renew for 3 (three) additional one-year periods.
- B The contract term shall be for the period of time as stated on the Bid Cover Sheet.

9. CONTRACT VALUE

This is a Requirements Contract for providing a readily available source to serve at the County's discretion for the services specified. The estimated annual expenditure for such requirements as stated on the Quotation Sheet, represents only the County's best estimates, and is not to be taken as a guarantee of any specific dollar expenditure.

In addition, any jobs estimated to exceed \$15,000.00 will not normally be performed under this contract and, instead, may be subjected individually to competitive bidding procedures. Such determination will be made by the Director, Office of Procurement, when determined to be in the County's best interest.

10. CONTRACTOR RESPONSE

In an emergency situation, the Director, Office of Procurement or a designated representative may place a call, day or night, against this contract and the Contractor shall respond within a two (2) hour period to affect repairs/replacement as required. This provision will be used only during a declared Federal, State of Maryland, and/or local Maryland jurisdiction emergency or when any of the County's vital services are impaired, such as those of the Fire, Police, or Health Departments, or Detention Center. The County will have a representative on the project that will be responsible for advising the Contractor of the problem and signing off on the Contractor's record of time and materials. The Contractor shall provide a phone number for emergency use outside normal business hours. In other than an emergency situation as described above, the Contractor is expected to respond within a twenty-four (24) hour period to calls for service.

11. CORRECTION OF WORK AFTER FINAL PAYMENT

The Contractor shall remedy any defects due to faulty material or workmanship and pay for any damage to other work resulting there-from, which shall appear or occur within the guarantee period beginning with the date of final payment, or from the date of the County's substantial usage of the project, whichever is earlier. The County shall give notice of observed defects with reasonable promptness.

12. CORRECTION OF WORK BEFORE FINAL PAYMENT

The Contractor shall promptly remove from the premises all work condemned by the County as failing to conform to the contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute condemned work in accordance with the contract and without expense to the County and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

13. DAMAGE/SHORTAGE

The County will not accept any new units until all damage has been repaired and factory shortages have been received. The County shall not be liable for any equipment delivered which is damaged, short components, or is not fully prepared for service.

14. DEALER STATUS

Bidders, by offering quotations herein, certify that they are current authorized dealers in good status for all quoted manufacturers. Manufacturer's written certification of dealer status must be provided within ten (10) working days prior to award of the Contract, if so requested by the County at any time during the contract period. Should the Contractor lose dealer status at any time during the contract period for any contracted items, that portion of the contract will automatically be cancelled with no further obligation by the County.

15. DELAYS AND EXTENSION OF TIME

If the Contractor is delayed at any time in the delivery of Supplies, Material, Equipment and/or Services by any act or neglect of any separate Contractor employed by the County, or by changes ordered in the Supplies, Materials, Equipment and Services, or by strikes, lockouts, fires, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the County, the County shall decide the extent of such delay or the justification of any other delay, then the time of completion shall be extended for such reasonable time as the County may decide.

16. DELIVERY INSTRUCTIONS

All deliveries are to be made to the locations identified and listed in the bid and are to be coordinated and scheduled with the individuals as indicated.

17. DEPARTMENTS AUTHORIZED TO USE CONTRACT(S)

The primary user of this contract will be the Department named on the Bid Cover Sheet. This agency is authorized to use its own internal Job Release System and Financial Department methods. All other users of this contract must route their usage through THE CONTRACTING OFFICER, or designee. Contractors are cautioned not to perform work for any other than the primary user without written authorization from the Director, Office of Procurement.

18. EQUIPMENT PREPARATION

New vehicles/equipment service and preparation, as recommended by the manufacturer, shall be completed by the successful Contractor prior to delivery. Equipment delivered shall be prepared and ready for the designed and intended service use. No dealer identification is to be affixed to any new units.

19. ESTIMATES

The Contractor will prepare and submit a Job Authorization Form (JAF), (Attachment "H", page 1) to the Contract Administrator or designee for approval prior to performing work in accordance with contract prices, which will contain the following:

- a. Brief description of the work to be performed
- b. Number of labor hours and types of labor
- c. Material cost estimate
- d. Estimated completion date
- e. Contract number
- f. Signature verifying estimate

No request will be considered for compensation in addition to the price submitted in the "Job Authorization Form" unless modified in writing by the Contract Administrator or designee.

If the Job Authorization Form (Attachment "G"), Not-To-Exceed (NTE) estimates are determined to be excessive in cost or completion date, the County may solicit proposals as per the Montgomery County Procurement Regulations.

20. FAILURE TO PERFORM/DELIVER

In the event of a Contractor's failure to comply with the established delivery schedule, the County reserves the right to make an open market purchase of the required materials and/or services, and to charge as damages, the difference between the established price and the actual cost incurred by the County and to collect such charges from the Contractor, from any money due

under this contract, or any other contract with the County. Alternatively, the County may assess liquidated damages at the rate of 1% per day of the cost of such item or service for each day of delay beyond the established delivery date.

21. HEAVY DUTY

The term "heavy duty" shall be interpreted to mean, "the item shall be designed for unusual strain and/or severe service."

22. INVOICES

All true and corrected invoices and all inquiries regarding payment are to be must be forwarded ELECTRONICALLY to:

DFM Vendor Invoice <DFMVendorInvoice@montgomerycountymd.gov>

Or by mail to:

DFM Fiscal Services Section
Division of Facilities Management
Department of General Services
1301 Seven Locks Rd.
Rockville, Maryland 20854

23. LABOR COSTS

The labor costs for other than normal straight time shall be billed to the County in accordance with labor agreements or the effective company policy. Said labor costs shall be adjusted to reflect only those actual costs paid or accrued by the Contractor and shall include the same rate percent (%) of profit as is included in the straight time labor rate.

24. MANUALS

The Contractor shall provide a minimum of two (2) copies of Operator's Manuals and one (1) copy each of Shop Manual and Parts Manual to be furnished upon delivery of the units.

25. MATERIAL AND WORKMANSHIP

The work shall be under the general direction of the Contractor but subject to the inspection of the Contract Administrator, or the authorized representative, who may require the Contractor to correct defective workmanship and materials without cost to the County.

All material and practices which are necessary, or which are normally provided and performed in order to accomplish the desired results, shall be furnished by the Contractor at the bid price and shall conform in strength, quality of material, appearance, and workmanship to that usually provided by the trade.

26. MATERIALS

The County reserves the right to furnish any or all materials for work under this contract. Normally, the Contractor will furnish required materials. Materials supplied by the Contractor shall be at Contractor's Cost including, if appropriate, material handling costs as part of material costs, shall include only costs clearly excluded from the Labor Hour rate. Material handling cost may include all appropriate indirect costs allocated to direct materials in accordance with the Contractor's usual accounting procedures. Contractor's charges for materials shall be based on established Catalog or List Price in effect when material is furnished, less all applicable discounts and in no event shall the price exceed the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

27. METHOD OF ORDERING

It is the intention of the County to issue written purchase orders or blanket purchase order(s) to the contractor(s). If blanket purchase order(s) is/are issued, written individual releases against such blanket order(s) will be made by the using agency as required. Issuance of all purchase orders will be contingent upon appropriation of funds by the Montgomery County Council and encumbrance of such funds after July 1, of each year, as provided by the Montgomery County Code.

28. MULTIPLE AWARDS

In the event of multiple awards resulting from this solicitation, the contract period will approximate one (1) year, as it is the County's intent that all contracts awarded under this solicitation terminate on the same date.

29. NET PRICES

Prices are net, inclusive of all charges for transportation FOB Destination, freight prepaid and allowed, and inside delivery, and all other charges necessary for performance under the Contract. Prices are less Federal, State, and Local taxes.

30. NEW MATERIALS

Unless this contract specifies otherwise, the Contractor represents that the supplies and components are new and are not of such age or so deteriorated as to impair their usefulness or safety.

31. OPTION TO INCREASE QUANTITIES

Montgomery County reserves the right, at its option, to increase the quantities for any item awarded, not to exceed 100% of the quantities shown on the Quotation Sheet(s). The County reserves the right to purchase additional units within the date shown by the bidder on the Quotation Sheet(s), or within six (6) months of the date that the initial award is made, whichever is later. The Contractor agrees to accept such increases at the same unit prices as provided in the initial contract for the initial quantities. No guarantee of purchases of any specific quantity or total dollar amount is made. In addition, all purchases are contingent upon the appropriate fiscal funding.

32. ORDERING TERMS

Orders for goods/services that are placed before the expiration of the contract term and are to be started and/or completed before the expiration of the contract are to be honored with all terms, conditions, and prices of the Contract in effect until the final delivery of goods and/or completion of the work is made and accepted by the County.

33. PARTS/SERVICE

To best serve the needs and interests of Montgomery County, it is the intention of these specifications to secure bids only on units which can be efficiently maintained and serviced without the necessity of the County stocking expensive parts, or being subject to the inconvenience of frequent and/or long periods of interrupted service due to non-availability of parts. Bidders shall specify nearest location of parts depots from which parts may be obtained at any time during the day or night.

34. PAYMENTS

Payment shall be made upon submission of invoices to DFMINVOICES@MONTGOMERYCOUNTYMD.GOV on a monthly basis, by the first day of the month, for all work performed during the previous month. Invoices are to be supported by records of "Time and Material", with the approval signature of the Contract Administrator (or designee). Material prices shall be subject to verification. A copy of paid receipts for material/equipment used or installed for each job performed shall be submitted with invoice only when material purchased for a specific job is of a major cost and when such record is requested by the Director, Office of Procurement.

35. PERFORMANCE BOND

No contract shall exist until the County receives a duly executed Performance Bond (or Certified or Treasurers Check or Irrevocable Letter of Credit) prepared on an approved form in the amount indicated on the Bid Cover Sheet. The bond must be made payable to Montgomery County, as security for the faithful performance of the contract and having as surety thereon such surety company or companies as are acceptable to the County and as are authorized to transact business in the State of Maryland. In the event the Performance Bond is not delivered within ten (10) days of Notice of Award then the offer may be ruled null and void and the award made to the next lowest responsive bidder. The County reserves the right of approval of any instrument offered as a Performance Bond.

The Performance Security will provide assurance of faithful performance and discharge of all duties and responsibilities attendant thereto required by law or as provided herein by the Contractor of all ASPECTS, TERMS AND

CONDITIONS of the contract and shall be maintained in full force and effect until the termination of this agreement.

36. (This provision has been intentionally left blank)

37. PROTECTION OF EXISTING FACILITIES

The Contractor shall take all necessary precautions during the period of service to protect existing County facilities from damage by the Contractor, Contractor's employees, subcontractor or subcontractor's employees and shall repair or replace, at the Contractor's own expense, any damaged property caused by the Contractor, Contractor's employees, subcontractor or subcontractor's employees.

38. PURCHASE OF GOODS BY NON-PROFIT ORGANIZATIONS

Pursuant to the requirements set forth in the Montgomery County Code, Chapter 11B-49, the Contractor agrees to extend the same terms, conditions, and prices for the goods provided by the Contractor pursuant to this contract to those Non-Profit organizations which may need the goods in order to perform a contract with the County. Non-Profit Organizations are defined as those organizations that are exempt from taxation under Section 501(c) (3) of the Internal Revenue Code but are not defined as a "public entity" under subsection (n) of Chapter 11B-1 of the Montgomery County Code.

39. PURCHASE ORDERS/JOB RELEASES

Prior to the commencement of work, THE DIRECTOR, OFFICE OF PROCUREMENT or authorized representative, shall authorize each project (job). Such authorization shall be in the form of a Purchase Order or Agency Job Release Number, as appropriate. The authorization shall include a general description of the required work, special instructions, estimated value (from Estimate to Complete), and the name of the individual designated as the Contract Administrator.

40. QUANTITIES

It is estimated that yearly expenditures under this contract will approximate the quantities listed on the Quotation Sheet. Under the terms of this Invitation for Bids, however, the resultant contract shall be considered a "requirements-type" contract only. No guarantee of purchases of any specific yearly quantity or total dollar amount is made. In addition, all purchases are contingent upon the appropriation and encumbrance of fiscal funding.

41. SAFETY STANDARDS

The vehicles/equipment, to include components, furnished under these specifications shall comply with all applicable Federal and Maryland State Standards.

42. SERVICE

The Contractor must be able to provide a qualified local service facility offering a fixed cost annual maintenance agreement (parts and labor) for on-site repairs. The cost of such Annual Maintenance, the location of the service facility, average response time, and contact person is to be included in the appropriate spaces on the Solicitation, Bid, and Award Sheets.

43. SITE INSPECTION

Each bidder is encouraged to visit each facility in order to become familiar with actual site conditions. Failure to visit each facility and to become completely knowledgeable of the requirement of work shall in no way relieve them of all provisions contained in the Invitation for Bids. Site inspections may be arranged by calling Troy Jones.

44. TRAVEL TIME

No payment for travel time to or from a job site shall be charged. Charges begin when the Contractor arrives at each job site and end when the Contractor leaves each job site. The Project Coordinator or Contract Administrator will verify time records.

45. WARRANTY

The manufacturer shall provide, with the bid submission, a detailed listing of items that will be covered under the provision of warranty. The terms of warranty shall include period of warranty both in mileage and time. In addition, the manufacturer is to provide a list of the number of dealers as indicated on the Bid Cover Sheet, other than the selling dealer, within the

stated miles radius of Rockville, Maryland that will provide priority warranty repair.

46. CONTRACT ADMINISTRATOR

The designated Contract Administrator for a contract resulting from this IFB is:

Gregory Boykin, Chief
Division of Facilities Management
Department of General Services
1301 Seven Locks Road
Rockville, Maryland 20854
Gregory.Boykin@montgomerycountymd.gov
(240) 777-5359

APPENDIX TO SECTION B

MANDATORY MINIMUM INSURANCE REQUIREMENTS – MERV-13 HVAC filters

Prior to the execution of the contract by the County, the proposed awardee/contractor must obtain, at their own cost and expense, the following *minimum* (not maximum) insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/contractor shall provide a copy of the insurance policies and additional insured endorsements. The minimum limits of coverage listed below shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of proposed awardee / contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary with the County's being non-contributory.

Commercial General Liability

A minimum limit of liability of **one million dollars (\$1,000,000), per occurrence**, for bodily injury, personal injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors & Subcontractors
- Products and Completed Operations

Business Automobile Liability – can be waived if delivery is performed by a third party

A minimum limit of liability of **one million dollars (\$ 1,000,000)**, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- Owned automobiles
- Hired automobiles
- Non-owned automobiles
- Loading and unloading

Worker's Compensation/Employer's Liability – can be waived if contractor is a sole proprietor or delivery is by a third party
Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$100,000 each accident**
- Bodily Injury by Disease - \$500,000 policy limits**
- Bodily Injury by Disease - \$100,000 each employee**

Subcontractor Requirements

Unless otherwise stated below the proposed awardee/contractor shall require all subcontractors to obtain, and maintain, insurance with limits equal to, or greater, than those limits required within the contract.

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees, must be included as an additional insured on an endorsement to Contractor's commercial general, automobile insurance, and contractor's excess/umbrella insurance policies, if used to satisfy the Contractor's minimum insurance requirements under this contract, for liability arising out of contractor's products, goods and services provided under this contract. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability of the contractor. Coverage pursuant to this Section shall not include any provision that would bar, restrict, or preclude coverage for claims by Montgomery County against Contractor, including but not limited to "cross-liability" or "insured vs insured" exclusion provisions.

Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County in accordance with the policy provisions.

Certificate Holder

Montgomery County, Maryland
Dept of General Services / Lola Ijelu
101 Monroe St., 9th Floor
Rockville, MD 20850

SECTION D – SPECIFICATIONS/SCOPE OF WORK

1. **Required Deliver Schedule.** The County requires delivery of the goods or services to be made according to the schedule below. The County will evaluate equally, regarding time of delivery, bids that propose delivery of each quantity of the goods or service within the required delivery period specified below. Bids that indicate a delivery schedule exceeding the “Required” delivery time period specified will be declared non-responsive and rejected. The County may elect to award under the Bidder’s proposed delivery schedule only if it offers delivery in the same or less time than the required delivery schedule. If the Bidder does not indicate its own delivery schedule, then the Bidder shall accept the required delivery schedule and it will apply to the award.
 - a. Number of days will be seven (7) to ten (10) business days after County places an order and/or a purchase order defining the quantity, type and size.
 - b. After the initial order, additional purchase orders defining the quantity, type and size will be issued at regular and/or irregular intervals.
2. **Packaging and Shipping.** Filters in Group I will be appropriately package to avoid damage during shipping. Filters with depth of 1-, 2- and 4-inch depth shall be package in groups of 12, 8 and 4 respectively (other quantities may be suggest by the Bidder). Each package will contain only one (1) size filter. Filters will be packaged as required to best protect the specific filter from damage during shipping. Each package will be clearly labeled for delivery to the Montgomery County User with the type, size and quantity.

Web-links for Documents and Forms:

1. Central Vendor Registration System (www.mcipcc.net)
2. Frequently Asked Questions, Procurement (<https://www.montgomerycountymd.gov/pro/help.html>)
3. MD-SDAT (<https://dat.maryland.gov/businesses/Pages/default1.aspx>) and (<http://dat.maryland.gov/businesses/Pages/Frequently-Asked-Forfeiture-Questions.aspx>).
4. Wage Requirements Law, Independent Contractor Certification (<https://www.montgomerycountymd.gov/PRO/Resources/Files/PMMD-193.pdf>)
5. **Attachment A:** Minority Business Program & Offeror's Representation (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-90.pdf)
6. **Attachment B:** Minority, Female, Disabled Person Subcontractor Performance Plan and Sample MFD Report of Payments Received (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-65.pdf) (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-97.pdf)
7. **Attachment C:** Wage Requirements for Services Contracts Addendum and Wage Requirements Certification Form and 501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-177.pdf)
8. **Attachment D:** Prevailing Wage Requirements for Construction Contract Addendum (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-185.pdf)
9. **Attachment E:** Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-91.pdf)
10. **Attachment F:** Local Business Subcontracting Performance Plan (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-192.pdf)