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# **INVITATION FOR BIDS**

*Via eProcurement System*

## **IFB NO. 2022-29 SEWELL'S ORCHARD POND RETROFIT Capital Project No. D-1178**

**OPENING: MARCH 9, 2022 AT 11:00 A.M.  
PRE-BID TELECONFERENCE: FEBRUARY 8, 2022 AT 10:00 A.M.**

**BUYER: MICHAEL V. DECKER, CPPB  
PHONE: 410-313-6375 ▪ EMAIL: [mdecker@howardcountymd.gov](mailto:mdecker@howardcountymd.gov)**

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## **HOWARD COUNTY, MARYLAND**

### **OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION**

6751 Columbia Gateway Drive, Suite 226, Columbia, MD 21046

<https://www.howardcountymd.gov/Departments/County-Administration/Procurement-and-Contract-Administration>



# NOTICE OF LETTING



**HOWARD COUNTY, MARYLAND**  
OFFICE OF PROCUREMENT AND CONTRACT ADMINISTRATION  
6751 Columbia Gateway Drive, Suite 226  
Columbia, Maryland 21046

**INVITATION FOR BIDS NO. 2022-29**

**SEWELL'S ORCHARD POND RETROFIT  
CAPITAL PROJECT NUMBER D-1178**

**Pre-Bid Teleconference:** February 8, 2022, 10:00 AM  
**Telephone:** 605-562-8401 **Passcode:** 3129012

**Opening:** March 9, 2022, 11:00 AM

Howard County, Maryland, (the "County"), seeks a qualified firm (the "Contractor"), to furnish services for the construction (including the provision of all required labor, equipment, and materials) of provided final plans and specifications provided herewith for the Sewell's Orchard Pond Retrofit project. This project involves the retrofit of an existing wet pond located west of MD 175 and Snowden River Parkway Columbia, Maryland for the Department of Public Works of the Bureau of Environmental Services, Stormwater Management Division. This project is in SHA Cost Group "B". Each bid shall be accompanied by an electronic copy of a bid bond OR certified check, in the amount of 5% of the total bid, made payable to the "Director of Finance, Howard County". For a certified check, the Contractor shall submit the original certified check to the Office of Procurement and Contract Administration PRIOR to the bid due date and time to be deemed responsive.

The solicitation with instructions to the bidders will be posted electronically on PlanetBids on January 18, 2022. PlanetBids is the only location where this solicitation will be available. To view or download prints of the solicitation please use the link provided here: [Planet Bids, Howard County](#)

**For Procurement Questions, Contact: Micheal V. Decker, CPPB, [mdecker@howardcountymd.gov](mailto:mdecker@howardcountymd.gov) or (410) 313-6375.**

**Howard County, Maryland  
Office of Procurement and Contract Administration  
Gateway Building, Suite 226  
6751 Columbia Gateway Drive  
Columbia, Maryland 21046**

**INVITATION FOR BIDS 2022-29  
SEWELL'S ORCHARD POND RETROFIT  
CAPITAL PROJECT NUMBER D-1178**

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**IMPORTANT: ADVISE OFFICE OF PROCUREMENT AND CONTRACT  
ADMINISTRATION IMMEDIATELY IN THE EVENT ANY OF THE ABOVE  
SECTIONS ARE MISSING.**

# **INFORMATION FOR** **CONTRACTORS**

## INFORMATION FOR CONTRACTORS

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**INFORMATION FOR CONTRACTORS**

**1. SUBMISSION OF BID DOCUMENTS**

- 1.1 Failure to attach the required documents may be cause for rejection of bid.
- 1.2 Unless otherwise specified, all formal bids submitted shall be irrevocable for 120 calendar days following the bid opening date.
- 1.3 Proposals made on anything other than the attached documents will not be considered. Changes in phraseology of the proposal, additions, or limiting provisions, will render the proposal nonresponsive and may cause its rejection.
- 1.4 Each bid shall be accompanied by the Affidavit regarding price fixing, gratuities, bribery, and discriminatory employment practices. When the Contractor is a corporation, a duly authorized representative of said corporation shall execute the Affidavit.
- 1.5 The Foreign Services Disclosure Form must accompany bids for construction-related services, architectural services, engineering services and energy performance contract services of \$2 million or more. Section 12-111 of the Maryland State Finance and Procurement Article requires bidders to local governments to make certain disclosures regarding plans, at the time the bid is submitted, to perform any services under the contract outside the United States. When applicable, the Foreign Services Disclosure form is provided in the solicitation package.
- 1.6 All bidders must be familiar with the general conditions, terms, and regulations for the bid. In case of conflicts between the contract documents, the order of precedence shall be: (1) Addenda to Invitations for Bids; (2) Information for Contractors; (3) Plans (Drawings); (4) Volume IV Design Manual, Standard Specifications and Details for Construction; (5) SHA Standard “Standard Specifications for Construction and Materials”.
- 1.7 If a discrepancy in or omission from the specifications is found, or if a Contractor is in doubt as to their meaning, or feels that the specifications are discriminatory, the Contractor shall notify the Buyer in writing not later than ten (10) days prior to the scheduled opening of bids. Exceptions taken do not obligate the County to change the specifications. The Issuing Office will notify all Contractors of any changes, additions or deletions to the specifications by addenda.
- 1.8 The submission of a proposal on this work and service will be considered as a representation that the bidder has carefully investigated (1) all conditions which affect or may, at some future date, affect the performance of the work or services covered by the proposal, (2) the entire area to be serviced as described in the attached specifications and other contract documents and that the bidder is fully informed concerning the conditions to be encountered; and (3) the character, quality and quantity of work to be performed and equipment and materials to be furnished. Also, that the bidder is familiar with all Federal, State, and County laws, all codes and ordinances of the County which in any

way affect the prosecution of the work or persons engaged or employed in the work or the materials and equipment used in the work.

- 1.9 Any quantities given under the various items of the proposal are approximate only and subject to increase or decrease, as provided in the contract, without changing the unit prices to be paid for the work.
- 1.10 The right is hereby reserved to reject any or all proposals, and to waive informalities as the interest of the County may require.

**2. PROJECT MANAGER**

The Howard County Project Manager for the contract is Mr. Avinash Dewani, telephone number: (410) 313-6417. Bidders shall not contact the Project Manager during the solicitation process. All questions shall be submitted to the buyer listed on the cover page.

**3. BID DEPOSIT**

- 3.1 Each bid submission shall be accompanied by an electronic copy of bid bond OR certified check. The bid deposit shall be 5% of the total bid, made payable to “Director of Finance, Howard County”.
- 3.2 For a certified check, Contractor shall submit the original certified check to the Office of Procurement and Contract Administration PRIOR to the bid due date and time to be deemed responsive.
- 3.3 The bond is to be forfeited, as liquidated damages in the event that this bid is accepted, and the above signed bidder shall refuse or neglect to execute the Contract and furnish the stipulated Bond under the conditions and time set forth in the Specifications.

**4. PERFORMANCE/PAYMENT BOND**

A performance bond and payment bond for the full amount of the contract price shall be required of the successful bidder within 10 days after award notification. Said bond shall be issued by a surety company subject to approval of Howard County.

**5. BIDDER’S QUALIFICATIONS**

- 5.1 Bidders shall have at least 5 years of experience in the construction of stormwater management pond facilities and shall have completed 5 pond facilities with principal spillway replacement, retrofit, reconstruction or new construction in the State of Maryland. The Contractor must have experience installing large cast-in-place concrete structures exceeding 20’ in height. The Contractor must have experience installing structures and placing compacted earth in saturated soils requiring dewatering. The Contractor must have experience installing sanitary sewer systems. The Contractor must have experience installing helical micropiles.

The Bidder’s Project Manager or Construction Superintendent to be assigned to this project shall have been supervising similar projects within the past 3 years. Bidders shall document this experience on the Qualifications Questionnaire, and provide a detailed list

of recently completed projects meeting the specified experience requirements. The experience of owner(s) may be imputed to a newly formed company/Contractor provided the owner(s) has/have at least 5 years of demonstrated experience of reliability and meets the criteria set forth herein.

- 5.2 The Qualifications Questionnaire shall be completed by all Bidders. Only the information contained in the Qualifications Questionnaire will be considered in evaluating the Bidder's qualifications. Attachments (unless specifically requested), company brochures or submittals in any other format will not be considered in evaluating the qualifications of the Bidder. Bidders may reproduce sections of the Qualifications Questionnaire form as needed to provide the required information necessary to adequately demonstrate their experience.
- 5.3 The County reserves the right to check references furnished and consider the responses received in determining award of this bid. The County will not contact Bidders for clarifications of illegible information, wrong names, wrong phone numbers, or wrong addresses provided by Bidders on the Qualifications Questionnaire. Incomplete submittals or unverifiable information may not be considered in the evaluation.
- 5.4 The County reserves the right to inspect the Bidders' equipment, request resumes or past work experience of key personnel or to interview key personnel to be assigned to the contract.
- 5.5 Contracts shall be awarded to the lowest responsive and responsible bidder meeting all the specifications. In accordance with Howard County Code Sec. 4.117 (a) (4), the quality of performance of previous contracts or services shall be considered in determining the lowest responsive and responsible bidder. The County reserves the right to reject any bid deemed not responsible or non-responsive.

## **6. ESTIMATED QUANTITIES**

The estimated quantities stated are provided as a general guide for bidding and are not guaranteed. Actual quantities may be more or less than those estimated. The County reserves the right to add, change or delete items as deemed necessary.

## **7. METHOD OF AWARD**

Howard County intends to make award to the lowest responsive responsible bidder meeting all the specifications, having submitted all the required documents, and meeting all necessary experience and reference requirements for the total bid.

## **8. WORK SCHEDULE**

- 8.1 The County observes a five-day workweek and the following holidays:

New Year's Day  
Martin Luther King, Jr. Day  
President's Day  
Good Friday  
Memorial Day



Juneteenth  
Independence Day, Fourth of July  
Labor Day  
Indigenous People's Day  
Veterans Day  
Thanksgiving Day  
Friday after Thanksgiving  
Christmas Day

- 8.2 If any holiday occurs on Sunday, the following Monday shall be considered a holiday. If the holiday occurs on Saturday, the Friday immediately preceding shall be considered a holiday.
- 8.3 The Contractor will not be permitted to work on the above-mentioned holidays or Saturdays unless requested 48 hours in advance by written notice. The Engineer will authorize this in writing and the Contractor will not be charged for the inspector's time. In the event that the Contractor fails to work its forces as indicated in its written request, it shall be charged a minimum of one-half (1/2) day for inspection time at the overtime rate.
- 8.4 The normal number of working hours per day on this contract will be limited to nine (9), unless otherwise authorized by the Engineer in writing.
- 8.5 In case of emergency, which may require that work be done on Saturdays, Sundays, Holidays, or longer than nine hours per day, the Contractor shall request permission of the Engineer to do so. If, in the opinion of the Engineer, the emergency is bona fide, he will grant permission to the Contractor to work such hours as may be necessary. Also, if in the opinion of the Engineer a bona fide emergency exists, he may direct the Contractor to work such hours as may be necessary whether the Contractor requests permission to do so or not.
- 8.6 All proposed work shall be completed within 250 calendar days from the date specified in the Notice to Proceed.
- 8.7 The amount of liquidated damages for this contract shall be \$500.00 per calendar day.

**9. PROHIBITIONS AGAINST DISCRIMINATION**

The Contractor and all subcontractors shall not engage in any unlawful employment practice prohibited by law in connection with the work to be done under this contract. The Contractor shall not discriminate against any employee or applicant on the basis of race, creed, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, creed, color or national origin.

**10. COOPERATIVE PURCHASING**

- 10.1 The County reserves the right to extend all of the terms, conditions, specifications, and unit or other prices of any contract resulting from this bid to any and all public bodies, subdivisions, school districts, community colleges, colleges and universities including

non-public schools. This is conditioned upon mutual agreement of all parties pursuant to special requirements which may be appended thereto. The supplier/Contractor agrees to notify the issuing body of those entities that wish to use any contract resulting from this bid and will also provide usage information, which may be requested.

- 10.2 The County assumes no authority, liability or obligation, on behalf of any other public or non-public entity that may use any contract resulting from this bid. All purchases and payment transactions will be made directly between the Contractor and the requesting entity. Any exceptions to this requirement must be specifically noted in the bid response.

**11. PROTEST**

Any protest concerning the award of an Agreement shall be decided by the County. Protests shall be made in writing to the Issuing Office and shall be filed within ten days of issuance of award notification. A protest is considered filed when received by the Issuing Office. The written protest shall include the name and address of the protestor, identification of the procurement, a statement of the specific reason for the protest and supporting exhibits. The Issuing Office will respond to the written protest within ten days. The County's decision is final.

**12. AUTHORITY**

Solicitations are issued pursuant and subject to the provisions of Article VIII, Howard County Charter; Sections 4.100 through 4.123, Howard County Code, 2003; and the rules and regulations as prescribed by the County.

**13. MARYLAND REGISTRATION**

Contractors must be registered to do business in, and must be in good standing in, the State of Maryland. Contractors not registered must obtain registration information from the Maryland Department of Assessments and Taxation website at: [www.dat.state.md.us/](http://www.dat.state.md.us/) or by calling 410-767-1184 or Toll Free 888-246-5941.

**14. BACKGROUND CHECKS AND INVESTIGATIONS**

14.1 If a Contractor's employees are on-site in County buildings working without a County escort, each employee of the Contractor shall agree to a background check or investigation consisting of national criminal database search covering misdemeanors and felonies and the release of that information to the County in the event that it is required.

14.2 The Contractor shall assume the cost to have background checks completed for each employee assigned to each facility. The County may bill the Contractor \$100 for each standard background check. Public safety buildings require a higher level of security and in-depth background checks referred to as "investigations". The County may bill the Contractor \$250 for each in-depth background investigation. This fee, when billed to the Contractor, shall be payable to the County prior to the check or investigation being conducted.

14.3 The background checks or investigations shall include all employees, new employees, subcontractors and replacement employees to be completed prior to assignment of a building. The checks or investigations will be conducted by the County. The Contractor

shall submit the proper forms (provided by the County) to the appropriate County agency, which will be determined if background checks or investigations are necessary.

- 14.4 The Contractor shall not assign any individual convicted of the following offenses which shall include, but are not limited to: Abduction, Homicide, Rape, Aggravated Assault, Sex Offender, Assault with Intent to Murder, or Assault with Intent to Rob.
- 14.5 The Contractor shall not assign any individual convicted, or having incomplete probation for the following offenses which shall include, but are not limited to: Burglary, Breaking and Entering, Carrying or Wearing a Weapon, Destruction of Property, Possession of a Controlled Dangerous Substance with Intent to Distribute, Explosives, Kidnapping, Theft/Larceny, Maiming, Manslaughter, Sexual Assault, Hate Crimes, Robbery, and Distribution of a Controlled Substance.
- 14.6 The Contractor reserves the right to seek exception to the above guidelines governing acceptability for assignment to the facility by providing documented specifics pertaining to convictions of the employee in question. The County will, at its sole discretion, accept or reject the requested exception.

**15. INSURANCE**

The Contractor shall be required to purchase and maintain during the life of the Agreement, including any subsequent renewal terms, Commercial General Liability Insurance, Automobile Liability Insurance, and Worker's Compensation Insurance with limits of not less than those set forth below:

- 15.1 Commercial General Liability Insurance: Combined Single Liability limits of \$1,000,000 each occurrence and \$1,000,000 aggregate naming "Howard County, Maryland, its officials, employees, agents and volunteers" as Certificate Holder and as Additional Insured.
- 15.2 Automobile Liability Insurance: Combined Single Liability limit of \$1,000,000 any one accident.
- 15.3 Worker's Compensation Insurance: Statutory coverage for Maryland jurisdiction, including Employer's Liability coverage, with a limit of at least \$100,000.
- 15.4 The Contractor shall assure that all subcontractors or independent Contractors performing services in accordance with this solicitation carry identical insurance coverage as required of the Contractor, either individually or as an Additional Insured on the policies of the Contractor. Exceptions may be made only with the approval of the County. The Contractor shall indemnify the County for any uninsured losses relating to contractual services involving subcontractors, including workers' compensation claims.
- 15.5 The Contractor shall provide the County with Certificates of Insurance within ten days of award notification, naming "Howard County, Maryland, its officials, employees, agents and volunteers" as Certificate Holder and as Additional Insured on the certificate. Failure to provide the certificates as required shall result in rejection of award by the County. Such certificates shall provide that the County be given at least 30 days prior written notice of any cancellation of, intention to not renew, or material change in such coverage.

- 15.6 The providing of any insurance required herein does not relieve the Contractor of any of the responsibilities or obligations assumed by the Contractor in the Agreement awarded or for which the Contractor may be liable by law or otherwise.
- 15.7 Failure to provide and continue to enforce such insurance as required above shall be deemed a material breach of the Agreement and shall operate as an immediate termination thereof.
- 15.8 Failure to comply with this requirement at any time during the initial term and any subsequent renewals may be sufficient cause for termination for default.

**16. INTEGRATION AND MODIFICATION:**

This solicitation, the Contractor's response to this solicitation, subsequent Purchase Order(s), and, if applicable, the legal Agreement represents the entire understanding between the parties. Any additions or modifications shall only be made in writing and executed by both parties.

**17. AGREEMENT:**

- 17.1 The County and Contractor must execute an Agreement resulting from the award of this solicitation. In order to expedite this process, a sample standard Agreement is attached for review as part of this solicitation. Exceptions, if any, to the County's standard Agreement, Section E, must be noted in the bid to be considered during evaluation. The County will not accept any exceptions to the Agreement after the opening date and time of this solicitation. Exceptions to the County's standard Agreement may result in rejection of the bid.
- 17.2 Do not fill in or sign the sample Agreement attached. The County will prepare an Agreement specific to this solicitation for execution by the successful Contractor.

# **GENERAL CONDITIONS**

**GENERAL CONDITIONS**

1. Where reference is made to the General Conditions, it shall refer to the General Conditions contained in the above referenced Howard County Design Manual, Volume IV, Standard Specifications and Details for Construction.
2. Construction services will include all work efforts necessary to complete the project including mobilization, stake out, sediment control, grading, structural work, pipe work, maintenance of traffic, landscaping, pavement repair, trash and debris removal, as-built certifications and all other required efforts to complete planned improvements as required by the design, specifications and permits. The Contractor shall perform all required administration, management and quality assurance functions required to ensure proper execution of construction of the project as required by the design, specifications and related permits. The as-built survey and certification will be performed by the Engineer of Record. On construction tasks requiring an NPDES construction discharge permit, the County will acquire the permit and transfer the permit to the Contractor.
3. The Howard County Design Manual, Volume IV, Standard Specifications and Details for Construction, approved and adopted on May 30, 2017 and all subsequent amendments, including general conditions, are hereby made a part of this contract. Where reference is made herein or on the Contract Drawings to the Standard Specifications, Details, or General Conditions, it shall be interpreted to refer to the above Howard County Specifications.
4. All work shall be done in accordance with and as appropriate regarding the most current editions of:
  - 4.1. Howard County Design Manual Volume I – Storm Drainage.
  - 4.2. Howard County Design Manual Volume IV – Standard Specifications and Details for Construction.
  - 4.3. Maryland Standards and Specifications for Soil Erosion and Sediment Control
  - 4.4. Maryland Department of Transportation State Highway Administration Standard Specifications for Construction and Materials.
  - 4.5. Any other relevant and applicable standards not covered by the above.
5. The Engineer of Record is defined as the Engineer-In-Charge (EIC).
6. The Contractor shall be responsible for coordination with the Engineer of Record and/or appointed professional to perform all necessary testing, inspection, observation or other data necessary to fulfill the contract requirements and complete the as-built plan and project close-out certification, See Section 5 and Section 6 of the General Conditions. All contact information will be provided at the initial meeting once a Contractor is selected.

- 6.1. Testing and inspection of installations performed under the direction of the EIC include: Compaction testing, subgrade approval, proctor test (onsite material), cast-in-place rebar installation and formwork, concrete field and lab testing, trail proof-roll, pipe and storm drain pre-installation inspection, filter diaphragm installation, and landscaping (pre-installation, post-installation, and after 1-yr warranty). Any other required testing or inspections shall be the responsibility of the Contractor.
- 6.2. All testing and inspections required to document adequate installation of the fishing pier and helical micropiles is to be completed by a third-party testing agency retained by the Contractor.
- 6.3. The Contractor shall provide certifications based on testing provided by third-party agencies for all materials, structures, and appurtenances. Delivery tickets shall also be provided.
- 6.4. The Contractor shall provide surveyed information for all sub-surface installations in the dam including bottom of cutoff trench and bottom of filter diaphragm.
7. The permits associated with the project have been included herewith with the exception of the Howard County issued Grading Permit. The Grading Permit will be acquired by the Howard County Project Manager 3-4 weeks prior to the Notice to Proceed. In addition, the NOI established with MDE will be transferred to the Contractor for the duration of the project and it is the Contractor's responsibility to close the permit upon completion.
8. The Bidder is responsible for investigating and accepting the conditions affecting the work, including but not limited to restricted transportation to the site, site access, site mobility, excavation support requirements, disposal, handling and storage of materials, availability of labor, water, electric power, surrounding roads, uncertainties of weather, or similar physical conditions at the site, the topography and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Bidder further acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the County, as well as from information presented by the drawings and Specifications made a part of this Contract.
9. The Contractor shall utilize a professional engineer (P.E.) registered in the State of Maryland who has at least five years' experience in falsework design as needed for excavation support. The falsework design calculations and plans shall be signed by the P.E. and bear the seal of the P.E. The submittal of the design and falsework plans shall include the P.E.'s resume showing evidence of the required experience. The P.E.'s plans and design calculations shall evaluate and qualify all products and components including manufactured products and proprietary items for their intended service. Acceptance by the Engineer of Record of falsework systems shall not in any way relieve the Contractor

of the responsibility for the safety and adequacy of the design and construction for the falsework systems and operations, including all components.

10. The Contractor is responsible for maintaining safe traffic flow and public safety surrounding the site, see GC-7.07 and GC-7.08 of the general conditions of The Howard County Design Manual, Volume IV, Standard Specifications and Details for Construction, approved and adopted on May 30, 2017.
11. The Contractor is responsible for maintaining safe working conditions for all persons occupying the site, see GC-7.06 of the general conditions The Howard County Design Manual, Volume IV, Standard Specifications and Details for Construction, approved and adopted on May 30, 2017.
12. Quantities shown in the proposal are approximate for bid purposes only. Actual payment will be made based on the percent completion of the total lump sum for each bid item. The unit prices shall be provided at bid, for actual quantity of material delivered and adequately installed. Payment will not be made if the percentage of the lump sum being billed is not supported by the completed work. Upon final inspection and approval by the County, the Contractor will be paid an amount equal to 90 percent of the total amount of the contract; the remaining 10 percent will be retained for a period of 90 days after complete acceptance of the contractual effort by the Inspector to assure that the construction is satisfactory and can withstand traffic without failures. Such payment shall constitute full compensation for all labor, materials, equipment and incidentals required to complete the work to the satisfaction of the Engineer of Record or the Howard County Project Managers.
13. All landscape debris (brush, grass, weeds, tree limbs, trunks, stumps, soil, etc.) must be removed by the Contractor and disposed of at an approved site unless material can be utilized on this project with approval of the Engineer of Record, on other County or approved projects where it can stockpiled in accordance with an approved plans.
14. The Contractor shall submit an updated Critical Path Method schedule to establish the construction timeline within 5-days of NTP. See information for Contractors, number 8, for schedule requirements. Progress meetings will be held bi-weekly, the Contractor shall provide a 2-week look-ahead at each meeting and update the overall project schedule monthly. The overall schedule shall be provided in addition to the look-ahead at the first meeting of each month.
15. The Contractor shall submit a submittal register including a listing of submittals to be prepared by the Contractor and submitted to the EIC for review within 5-days of NTP. The submittals include shop drawings, product data, material certifications, and other documentation required to be submitted per the contract documents or as requested by the EIC or owner. Submittals will be returned within 30-calendar days.
16. The Contractor shall submit a COVID-19 safety plan within 5-days of NTP. The plan must outline all safety precautions required of all personnel on-site. The plan must be accepted by the owner before site work begins. The Contractor is responsible for enforcing the plan and maintaining a copy of the plan onsite to be available at the request of the owner, health inspectors, or other County or State personnel.



17. The Contractor is responsible for controlling construction to prevent adverse impacts to surrounding properties and on-site structures and infrastructure specified to remain. Work required to prevent and document these impacts such as vibration monitoring, dust control, utility designations, and pre-construction inspections are paid for as work incidental to pay items specified on the schedule of prices.
18. The 1-year warranty period required per GC-4.10 of “The Howard County Design Manual, Volume IV, Standard Specifications and Details for Construction”, approved and adopted on May 30, 2017, shall begin after the EIC has issued substantial completion. Landscaping and as-built approval may be excluded from the substantial completion. The 1-year landscape warranty shall begin after the EIC has issued initial acceptance of the installed landscaping. The Contractor shall address maintenance repairs as needed throughout the warranty period.
19. Substantial completion is the stage in which the work is sufficiently complete in accordance with the Contract Documents so the owner can utilize the work or a designation portion thereof for its intended use. Landscaping is excluded from the substantial completion and will be initially accepted following the initial landscape inspection. Final landscaping will be accepted after all punchlist items associated with the 1-year warranty inspection have been addressed. Any punchlist items for both the substantial completion inspection and the landscape inspections shall be addressed within 30-days of the inspection.
20. No action or failure to act on the part of the Owner or the EIC relieves the Contractor of the responsibility of performing work in accordance with the contract documents, including the acceptance of submittals, observation or inspection of work, or acceptance of work. Any substitutions or changes to the contract documents must be formally approved in writing. Deviations from the contract documents are not approved through submission of shop drawings or other submittals even if the submittal has been approved. Issuance of Substantial Completion or Final Completion does not constitute acceptance of work not complying with requirements of the contract document. The owner may direct removal of any work not conforming to the contract documents at the Contractor’s cost with no change to the project schedule.
21. Final completion will occur after the as-built package is accepted by the MDE-Dam Safety Division, punchlist items are addressed, and the 1-year warranty period is complete, and all necessary repairs have been addressed.

# **SPECIAL PROVISIONS**

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**TECHNICAL**  
**SPECIFICATIONS**

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**SAMPLE**  
**DOCUMENTS TO BE**  
**EXECUTED UPON**  
**CONTRACT AWARD**



**HOWARD COUNTY, MARYLAND  
PERFORMANCE BOND**

Bond No. \_\_\_\_\_

\_\_\_\_\_  
**Principal** **Business Address of Principal**

\_\_\_\_\_  
**Surety** **Obligee**

**HOWARD COUNTY, MARYLAND**

a corporation of the State of \_\_\_\_\_ and authorized to do business in the State of Maryland

\_\_\_\_\_  
**Penal Sum of Bond (express in words and figures)**

\_\_\_\_\_  
**Date Bond Executed**

**Description of Contract**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contract Number:**  
\_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond (“or Bond”) stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where a surety is composed of corporations acting as co-sureties, we, the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liabilities is indicated, the limit of such liability shall be the full amount of the Penal Sum.**

**WHEREAS, Principal has entered into or will enter into a contract with Howard County, Maryland (“County”), which contract is described and dated as shown above. The contract and all items incorporated into the Contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the plans, specifications, general provisions, special provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be**

referred to as the “Contract,” which is specifically incorporated herein by reference as if fully set forth herein, including but not limited to the choice of law and forum provisions of the Contract.

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed and delivered to the County.

NOW, THEREFORE, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. The Principal shall well and truly perform the Contract, including all warranty or guarantee obligations, and shall discharge any and all liability for latent defects, for which the Surety shall also be liable;
2. The Principal and Surety shall comply with the terms and conditions of this Performance Bond;
3. If the Obligeo notifies both the Contractor and the Surety at their addresses described in this Performance Bond that the Obligeo is considering declaring the Contractor in default of the Contractor’s obligations under the Contract, then, the Surety, at the Obligeo’s request, shall arrange a conference with the Principal and the Obligeo to discuss methods of performing the Contract. If the Obligeo, Principal and the Surety agree, the Principal shall be allowed a reasonable time, as determined by the rights to declare the Principal in default under the contract and terminate the Principal’s right to proceed or to avail itself of any other right or remedy under the Contract;
4. If the Obligeo declares the Contractor in default and terminates the Principal’s right to proceed prior to final acceptance by the Obligeo of the services (as defined in the Contract), then the Surety shall:
  - a. Undertake to perform and complete the Contract itself through its agents or through independent Contractors; or
  - b. Obtain bids or negotiated proposals from qualified Contractors acceptable to the Obligeo for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Obligeo with a Contractor selected with the Obligeo’s concurrence and acceptable to the Obligeo to be secured with performance and payment bonds executed by a qualified Surety in a form acceptable to the Obligeo, and pay to the Obligeo the cost of completion of the Contract in excess of the Balance of the Contract price; or
  - c. If the cost to complete the Contract is in excess of the balance of the Contract price plus the Penal Sum of the Performance Bond, then either obtain bids or negotiated proposals from qualified Contractors acceptable to the Obligeo for a contract for performance and completion of the contract, arrange for a contract to be prepared for execution by the Obligeo with the Contractor selected with the Obligeo’s concurrence and acceptable to the Obligeo, to be secured with performance and payment bonds executed by a qualified Surety in a form acceptable to the Obligeo and pay to the Obligeo the excess cost of completion up to the Penal Sum of the Performance Bond as the excess costs are incurred by the Obligeo; or pay to the Obligeo the Penal Sum of the Performance Bond within thirty (30) days of the date when the Surety determines the cost to complete the Contract is in excess of the sum of the Penal Sum of the Performance Bond and the balance of the Contract price.
5. If the Surety complies with the obligations contained in paragraph 4 of this Bond, then, the Surety’s liability shall be limited to the Penal sum of the Bond.

6. **If the Surety contests the propriety of the default and termination of the Principal's right to proceed, the Surety shall, nevertheless, comply with the obligations contained in paragraph 4 of this Bond but, in that event, the Surety shall be entitled to exercise all of the Principal's remedies under the Contract, including but not limited to asserting any and all claims which the Principal may have.**
7. **The balance of the Contract price shall be the total amount payable by the Oblige to the Principal under the Contract after adjustments for any approved change orders, including allowance to the Principal of any amounts received or to be received by the Oblige in settlement of insurance or other claims for damage to which the Contractor is entitled, reduced by all payments properly made to and on behalf of the Principal under the Contract and less any deductions made by the Oblige under the Contract for any damages for which the Principal may be liable to the Oblige under the Contract.**
8. **If, after notice of default under the Contract and termination of the Principal's right to proceed, the Surety does not comply with the obligations contained in paragraph 4 of this Bond, then the Oblige, within fifteen (15) days after notice to the Surety, may have the remaining Contract work completed and the Surety shall be liable for all completion costs and other costs and damages that the Oblige may incur as a result of the Surety's failure to comply with the terms of this Bond.**

**The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations under the Bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications. Any increase in the Contract amount shall automatically result in a corresponding increase in the Penal Sum, without notice to or consent from the Surety, such notice and consent being hereby waived. Decreases in the Contract amount shall not, however, reduce the penal amount of the Bond unless specifically provided for in the change order.**

**The Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland exclusive of its choice of law rules and any reference herein to the Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.**

**IN WITNESS WHEREOF, the Principal and the Surety have set their hands and seals to the Performance Bond. It is specifically understood and agreed that this Bond shall be a sealed instrument for all purposes. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the date of the Bond shown above.**

---

**In Presence of:** **Individual Principal**  
**Witness**  
..... as to .....(SEAL)

---

**Presence of:** **Co-Partnership Principal**  
**Witness**  
.....(SEAL)  
(Name of Co-Partnership)

..... as to **By:**.....(SEAL)  
..... as to .....(SEAL)  
..... as to .....(SEAL)

**Corporate Principal**  
.....  
**Attest:** (Name of Corporation)

..... **AFFIX**  
**Corporate Secretary** **By:**..... **CORPORATE**  
**President** **SEAL**

---

.....  
(Surety) **AFFIX**  
**Attest:** (SEAL) **By:**..... **CORPORATE**  
**SEAL**

..... **Title:**.....  
**Signature**

**Bonding Agent's Name:**.....  
.....  
(Business Address of Surety)

**Agent's Address:**.....





HOWARD COUNTY, MARYLAND  
PAYMENT BOND

Bond No. \_\_\_\_\_

Principal

Business Address of Principal

Surety

Obligee

HOWARD COUNTY, MARYLAND

a corporation of the State of \_\_\_\_\_ and authorized to do business in the State of Maryland

Penal Sum of Bond (express in words and figures)

Date Bond Executed

Description of Contract

Contract Number:

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, being authorized to do business in Maryland, and having business addresses as shown above, are held and firmly bound unto the Obligee named above, for the use and benefit of Claimants as hereinafter defined, in the Penal Sum of this Payment Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where a surety is composed of corporations acting as co-sureties, we, the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a Contract with Howard County, Maryland, which Contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the Contract shall hereinafter be referred to as the "Contract".

**WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed and delivered to the Obligee.**

**NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all Claimants as hereinafter defined, for all sums justly due, labor and materials furnished, supplied, and reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following conditions:**

- 1. A claimant is defined to be any and all of those persons supplying labor and materials in the prosecution of the work provided for in the Contract entitled to the protection provided by Sec. 17-101, et seq., State Finance and Procurement Article of the Annotated Code of Maryland (“Maryland Little Miller Act”).**
- 2. The above-named Principal and Surety hereby jointly and severally agree with the Obligee that every Claimant as herein defined, who has not been paid in full may, pursuant to and when in compliance with the provisions of the Maryland Little Miller Act, sue on this Bond for the use of such Claimant, prosecute the suit to final judgment for such sum or sums as may be justly due Claimant and have execution thereon. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.**

**The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this Payment Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications.**

**This Payment Bond shall be governed by and construed in accordance with the laws of the State of Maryland exclusive of its choice of laws rules and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.**

**IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Payment Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: The corporation’s name to be set forth below, a duly authorized representative of the corporation to affix below the corporation’s seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the date of this Bond shown above.**

**In Presence of:  
Witness**

..... as to

**Individual Principal**

.....(SEAL)

**In Presence of:  
Witness**

..... as to  
..... as to  
..... as to

**Co-Partnership Principal**

.....(SEAL)

(Name of Co-Partnership)

By:.....(SEAL)

.....(SEAL)

.....(SEAL)

**Corporate Principal**

.....

(Name of Corporation)

**Attest:**

.....  
**Corporate Secretary**

By:..... **CORPORATE**

**President**

**AFFIX**

**SEAL**

(Surety)

**Attest:** (SEAL)

.....  
**Signature**

By:..... **CORPORATE**

**SEAL**

**Title:**.....

**Bonding Agent's Name:**.....

.....  
**(Business Address of Surety)**

**Agent's Address:**.....

**HOWARD COUNTY, MARYLAND  
CONTRACTOR AGREEMENT  
CA-XX-20XX**

THIS AGREEMENT (“Agreement”), is made by and between **[INSERT NAME OF CONTRACTOR, INSERT CONTRACTOR’S ADDRESS – ALL CAPS AND BOLD]**, Insert Phone #] (“the Contractor”), and **HOWARD COUNTY, MARYLAND**, (“the County”) as a result of Invitation for Bids No. \_\_\_\_\_-\_\_\_\_\_.

**RECITALS**

This Agreement is subject to all the conditions, covenants, stipulations, terms and provisions contained in the Contract Documents as described in Paragraph 6 of this Agreement. The Contractor has been notified of award, for a sum equal to the aggregate cost of the work, labor, materials, and supplies done or furnished, at the prices and rates respectively named in the attached proposal (also referred to as Contractor’s “Bid”).

This Agreement fulfills the conditions of the award, which provides that a formal contract should be executed by and between the Contractor and the County evidencing the terms of the award.

**AGREEMENTS**

1. The Contractor covenants and agrees with the County that it will well and faithfully construct the project known as [ Insert Contract Title ], in accordance with each and every one of the conditions, covenants, stipulations, terms and provisions contained in the Contract Documents, at and for a sum equal to the aggregate cost of the work, labor, materials, and supplies done and furnished at the prices and rates respectively named in the Contractor’s Bid. The Contractor further covenants and agrees that it will well and faithfully comply with and perform each and every obligation imposed upon him by the Contract Documents, or the terms of the award.
2. The Contractor covenants and agrees that its obligations pursuant to the Contract Documents include but are not limited to the furnishing of all material, labor, equipment, supplies, plant, tools, and all other services, facilities and expenses necessary for the full operational performance and completion of the requirements of the Contract Documents.
3. The County agrees that it will pay the Contractor, when due and payable under the terms of said Contract Documents and of said award, the sums set forth in Contractor’s proposal, and the Contractor agrees that it will well and faithfully comply with and perform each and every obligation imposed upon it by this Agreement.

**OPTION A:**

4. In no event shall the total compensation paid to the Contractor under this Agreement exceed the sum of \$\_\_\_\_\_ (Dollars) during the entire term of this Agreement.

**OPTION B:** [CHOOSE THIS OPTION FOR PROJECT SPECIFIC AGREEMENTS TO ACCOMMODATE DISCRETIONARY FUNDS.]

4. In no event shall the compensation paid to the Contractor exceed the budget appropriation during the term of this Agreement.

5. **Contractor's Representations and Warranties:** The Contractor hereby represents the following:

5.1 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR IS AN INDIVIDUAL] The Contractor is a [corporation][limited partnership][general partnership][limited liability company], duly formed and validly existing under the laws of the State of [INSERT STATE OF INCORPORATION FROM SDAT] and is qualified to do business and is in good standing [and licensed] in the State of Maryland.

5.2 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR IS AN INDIVIDUAL] The Contractor has the power and authority to consummate the obligations and responsibilities contemplated hereby and has taken all necessary action to authorize the execution, delivery and performance required under this Agreement.

5.3 The person executing this Agreement for the Contractor warrants that he/she is duly authorized by the Contractor to execute this Agreement on the Contractor's behalf.

5.4 SELECT ONE OF THE FOLLOWING OPTIONS: A. [The services to be provided under this Agreement shall be performed competently and with due care, and in accordance with all applicable laws, codes, ordinances and regulations and licensing requirements.] OR B. [The goods to be delivered shall comply with the implied warranties of merchantability and fitness for use, and all express warranties created by this Agreement.]

6. Contract Documents. The Contractor and County agree that the following enumerated documents, collectively referred to as Contract Documents, are all essential documents of this Agreement and are made a part hereof as if fully set forth herein:

- 6.1 Contractor Agreement
- 6.2 General Conditions for Construction and Applicable Addenda
- 6.3 Proposal and Special Provisions
- 6.4 Instructions to Bidders
- 6.5 Bid Form
- 6.6 Performance Bond No. \_\_\_\_\_
- 6.7 Labor and Materials Payment Bond No. \_\_\_\_\_
- 6.8 All Drawings and Specifications
- 6.9 All Addenda duly issued prior to submission of Bids
- 6.10 All Change Orders duly issued
- 6.11 Any amendments to the Contract duly executed by both parties, and
- 6.12 Additional documents listed on any Addendum attached hereto.

7. Ownership of Goods. All finished or unfinished work, reports, or goods that are the subject of this Agreement; including any licenses or consents acquired by the Contractor for performance hereunder, shall be and shall remain the property of the County.

8. Term. All proposed work shall be completed within 120 calendar days from notice to proceed.

9. Ethics.

9.1 The Contractor certifies that the officer of the corporation who is executing this Contract has read and understands Exhibit I, entitled Howard County Charter and Code References to Ethics, which contains the provisions of Section 901(a) of the Howard County Charter dealing with conflicts of interest and Section 22.204 of the Howard County Code dealing with conflicts of interest.

9.2 The Contractor certifies that he/she has (1) not been a party to an agreement to bid a fixed or uniform price; (2) not offered nor will offer any gratuity to any county official or employee; and (3) not violated any of the fair employment provisions of Code Sec. 4.119 Ethics and Fair Employment Practices detailed in Exhibit I.

9.3 If applicable, the Contractor has complied with Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland, which requires that every person that enters into, during any 24 month period, one or more contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, involving a cumulative consideration of at least \$200,000 (Two Hundred Thousand, Dollars) or more, shall file with the State Administrative Board of Election Laws a statement disclosing contributions to a candidate, or a series of such contributions, in a cumulative amount in excess of \$500 (Five Hundred Dollars) made during the reporting period to a candidate for elective office in any primary or general election.

10. Governing Law.

10.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland without regard to any choice of law principles that would dictate the laws of any other jurisdiction. The parties agree that the exclusive venue for any and all actions related hereto shall be the appropriate Federal or State court located within the State of Maryland.

10.2 This Agreement is made and entered into in Maryland and is to be construed under the laws of Maryland. As to the Contractor, this Agreement is intended to be a contract under seal and a specialty.

11. Indemnification.

11.1 The Contractor shall indemnify, hold harmless and defend the County, its employees, agents and officials from any and all claims, suits, or demands including reasonable attorney fees which may be made against the County, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by the Contractor or anyone under agreement with the Contractor to perform duties under this Agreement. The Contractor shall not be responsible for acts of negligence or willful misconduct committed by the County, its employees, agents and officials.

11.2 Any property or work to be provided by the Contractor under this Agreement will remain at the Contractor's risk until written acceptance by the County; and the Contractor will replace, at the Contractor's expense, all property or work damaged or destroyed by any cause whatsoever.

11.3 In the event that there is a conflict between the indemnification provision set forth in the Purchase Order Terms and Conditions and/or the General Conditions of the solicitation and/or this Agreement, the terms set forth in the Agreement shall govern.

12. Insurance. The Contractor shall be required to provide insurance required by the County pursuant to the insurance requirements specified in Section A of the IFB, including naming "Howard County, Maryland, its officials, employees, agents and volunteers" as Certificate Holder and as Additional Insured. The Contractor shall maintain the insurance coverages required by the County while this Agreement is in force and provide documentation of such insurance in a form satisfactory to the County. Such documentation may, in the discretion of the County, be in the form of binders or declarations from the insurance company.

13. American Manufactured Goods Required for Public Works.

13.1 The Contractor shall comply with Section 14-416 of the Maryland State Finance and Procurement Article which requires a Contractor or subcontractor to use or supply American Manufactured goods in the performance of a contract for (a) constructing or maintaining a public work; or (b) buying or manufacturing machinery or equipment that is to be installed at a public work site, as the same may be amended from time to time.

13.2 This section does not apply: (a) if the County determines that: (i) the price of the American manufactured goods exceeds the price of a similar manufactured good that is not manufactured in the United States by an unreasonable amount; (ii) the item or a similar item is not manufactured or available for purchase in the United States in reasonably available quantities; (iii) the quality of the item or a similar item manufactured in the United States is substantially less than the quality of a comparably priced, similar, and available item that is not manufactured in the United States; or (iv) the procurement of a manufactured good would be inconsistent with the public interest; or (b) to emergency life safety and property safety goods.

13.3 The Contractor shall certify to the County whether the offered goods and/or services are provided in the United States.

**EXHIBIT I**

**HOWARD COUNTY CHARTER AND CODE REFERENCES TO ETHICS**

***Charter Section 901. Conflict of Interest.***

(a) **Prohibitions.** No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

(b) **Rules of construction; exceptions by Council.** The provisions of this Section shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law.

In order, however, to guard against injustice, the Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business in connection with any person, firm or corporation dealing with the County, if, on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine that such stock ownership or connection does not violate the public interest.

The County Council may, by ordinance, delegate to the Howard County Ethics Commission the power to make such determinations and to authorize the ownership or connection. Any ordinance which delegates this power shall provide for procedures including a public hearing, and shall establish criteria for determining when the ownership or connection does not violate the public interest.

(c) **Penalties.** Any officer or employee of the County who willfully violates any of the provisions of this Section shall forfeit his office. If any person shall offer, pay, refund or rebate any part of any fee, commission, or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one or more than six months or a fine of not less than \$100.00 or more than \$1,000.00, or both. Any contract made in violation of this Section may be declared void by the Executive or by resolution of the Council. The penalties in this Section shall be in addition to all other penalties provided by law.

***Code Section 4.119. Ethics and Fair Employment Practices.***

(a) **Conflict of Interest.** Bidders, vendors, purchasers and county employees involved in the purchasing process shall be governed by the provisions of the Howard County Charter and Howard County law regarding conflict of interest. No vendor shall offer a gratuity to an official or employee of the county. No official or employee shall accept or solicit a gratuity.

(b) **Discouragement of Uniform Bidding.**

(1) It is the policy of the county to discourage uniform bidding by every possible means and to endeavor to obtain full and open competition on all purchases and sales.

(2) No bidder may be a party with other bidders to an agreement to bid a fixed or uniform price.

(3) No person may disclose to another bidder, nor may a bidder acquire, prior to the opening of bids, the terms and conditions of a bid submitted by a competitor.

(c) **Fair Employment Practices**

(1) Bidders, vendors and purchases may not engage in unlawful employment practices as set forth in Subtitle 2 "Human Rights" of Title 12 of the Howard County Code, Subtitle 6 of Title 20 of the State Government Article, Annotated Code of Maryland or Sections 703 and 704 of Title VII of the Civil Rights Act of 1964 as amended. Should any bidders, vendors or purchasers engage in such unlawful employment practices, they shall be subject to being declared irresponsible or being debarred pursuant to the provisions of this subtitle.

(2) The Howard County Office of Human Rights shall notify the county purchasing agent when any bidder is found, by a court of competent jurisdiction, to have engaged in any high unlawful employment practices.

(3) If any bidder has been declared to be an irresponsible bidder for having engaged in an unlawful employment practice and has been debarred from bidding pursuant to this subtitle, the Howard County Office of Human Rights shall review the employment practices of such bidder after the period of debarment has expired to determine if violations have been corrected and shall, within 30 days, file a report with the county purchasing agent informing the agent of such corrections before such bidder can be declared to be a responsible bidder by the County Purchasing agent.

(4) **Payment of subContractors.** All Contractors shall certify in writing that timely payments have been made to all subcontractors supplying labor and materials in accordance with the contractual arrangements made between the Contractor and the subcontractors.

No Contractor will be paid a second or subsequent progress payment or final payment until such written certification is presented to the county purchasing agent.

**Code Section 22.204. - Prohibited Conduct and Interests.**

(a) **Participation Prohibitions.**

- (1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:
- (i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest.
  - (ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
    - a. A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;
    - b. A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;
    - c. A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment;
    - d. If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;
    - e. An entity, doing business with the County, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or
    - f. A business entity that:
      - 1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and
      - 2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.
- (2) A person who is disqualified from participating under paragraph 1. of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:
- (i) The disqualification leaves a body with less than a quorum capable of acting;
  - (ii) The disqualified official or employee is required by law to act; or
  - (iii) The disqualified official or employee is the only person authorized to act.
- (3) The prohibitions of paragraph 1 of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(b) **Employment and Financial Interest Restrictions.**

- (1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
- (i) Be employed by or have a financial interest in any entity:
    - a. Subject to the authority of the official or employee or the County agency, board, commission with which the official or employee is affiliated; or
    - b. That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or
  - (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
- (2) The prohibitions of paragraph (1) of this subsection do not apply to:
- (i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;
  - (ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;
  - (iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission; or
  - (iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(c) **Post-Employment Limitations and Restrictions.**

- (1) A former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) For a year after the former member leaves office, a former member of the County Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.



(d) **Contingent Compensation.** Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

(e) **Use of Prestige of Office.**

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(f) **Solicitation and Acceptance of Gifts.**

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

- (i) Is doing business with or seeking to do business with the County office, agency, board or commission with which the official or employee is affiliated;
- (ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;
- (iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or
- (iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4) (i) Subsection (4)(ii) does not apply to a gift:  
a. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or  
c. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(ii) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:  
a. Meals and beverages consumed in the presence of the donor or sponsoring entity;  
b. Ceremonial gifts or awards that have insignificant monetary value;  
c. Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value;

d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

f. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;

g. Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related, in any way, to the official's or employee's official position.

(g) **Disclosure of Confidential Information.** Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(h) **Participation in Procurement.**

(1) An individual or a person that employs an individual who assists a County, agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

# **APPENDICES**

# APPENDIX A

## APPENDIX B

