

INFORMAL SOLICITATION #1161436

On-Site Truck Washing

SPECIAL NOTIFICATION FOR ISSUANCE UNDER LSBRP

Solicitation # 1161436 is being advertised under the Local Small Business Reserve Program (LSBRP). Should it be determined there are no viable Local Small Businesses that respond to this solicitation, Montgomery County may exercise an option to extend the informal solicitation advertisement for a minimum of five (5) days as non-LSBRP.

Any advertisement extension will be in the form of a solicitation amendment with the reissuance of the informal solicitation.

If you have any questions, please contact Diane Wurdeman at diane.wurdeman@montgomerycountymd.gov.

INFORMAL SOLICITATION RFQ #1161436
Montgomery County Department of Alcohol Beverage Services

On-Site Truck Washing

ISSUE DATE: August 28, 2023

SUBMISSION DEADLINE: 3:00 pm (Eastern Standard Time) on September 11, 2023

The Montgomery County Department of Alcohol Beverage Services (ABS or the “Department”) is soliciting bids for the purchase of On-site truck washing. Bids must be returned no later than the date and time listed above. If a bidder is interested in submitting a bid but cannot make the submission deadline, the bidder must email Diane Wurdeman to see if an extension may be granted. If a bidder is not interested in submitting a bid at this time, the bidder should sign the Quotation Sheet, write or type “NO BID” on it, and return it to the below email address.

The following pages contain the Terms, Conditions and Scope of Work for this Informal Solicitation.

Your bid may be submitted electronically by the due date and time to

Diane.Wurdeman@montgomerycountymd.gov.

Bids **MUST** be submitted in Adobe Acrobat (PDF) electronic format when emailed.

The subject line of the email submission **MUST** list the RFQ # and Vendor’s Name. If you do not receive an acknowledgment within 1-hour during normal business hours, please reach out to Diane Wurdeman at 240-876-3411 requesting confirmation of receipt of your bid submission.

Bidders must also mail the original bid document within 5 business days after the due date and time. Bids should be mailed or delivered to Diane Wurdeman, ABS, 201 Edison Park Drive, Gaithersburg, MD 20878 or Diane.Wurdeman@montgomerycountymd.gov

Please note that any bids received after **3:00 pm on September 11, 2023** will not be considered for award under this solicitation.

Should you have any questions regarding the information or the scope of services contained in this solicitation, contact Diane Wurdeman at (240)-876-3411 or by email

Diane.Wurdeman@montgomerycountymd.gov

Informal #1161436	MONTGOMERY COUNTY, MARYLAND On-Site Truck Washing SOLICITATION, BID AND AWARD SHEET	RETURN BID TO: Diane Wurdeman ABS 201 Edison Park Drive Gaithersburg, MD 20878 Diane.Wurdeman@Montgomerycountymd.gov
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PART I: SOLICITATION

THE FOLLOWING DOCUMENTS ARE HEREBY INCORPORATED BY REFERENCE INTO AND MADE PART OF ANY CONTRACT AWARDED.

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 specifications/scope of work shown in Section D of this document.
3. This "Solicitation, Bid and Award Sheet" and the attached solicitation Quotation Sheet(s).

PART II-BID

The Bidder, by signing this solicitation, 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 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.

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 "t/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: [REDACTED]	TELEPHONE NO.: [REDACTED]
ADDRESS: [REDACTED]	
REMITTANCE ADDRESS: (If Remittance Address is Different from Above Address) [REDACTED]	
BIDDER'S E-MAIL ADDRESS: [REDACTED]	
NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (TYPE OR PRINT): [REDACTED]	
SIGNATURE: [REDACTED]	DATE: [REDACTED]

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 nonresponsible 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: _____

Address: _____ City: _____ ST: _____ Zip: _____

Contact Person: Phone: _____

Email Address: _____

2. Name of Firm: _____

Address: _____ City: _____ ST: _____ Zip: _____

Contact Person: Phone: _____

Email Address: _____

3. Name of Firm: _____

Address: _____ City: _____ ST: _____ Zip: _____

Contact Person: Phone: _____

Email Address: _____

Informal Solicitation RFQ #1161436
Montgomery County Department of Alcohol Beverage Services

SECTION A: INSTRUCTIONS, CONDITIONS AND NOTICES

1. INTENT

The purpose of this solicitation is to seek a supplier ("Contractor") to provide on-site truck washing at the ABS warehouse at 201 Edison Park Drive for Montgomery County, Maryland, as per the Terms, Conditions, Specifications, and/or Scope of Work, and Quotation Sheet contained herein.

2. VERBAL EXPLANATIONS

Verbal explanations or instructions given by a Montgomery County employee to a bidder in regard to this Informal Solicitation will not be 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 Informal 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. Such amendments only, when issued by the Contracting Officer, will be considered as being binding on the County.

3. AWARD OR REJECTION OF BID

The County reserves the right to accept or reject any of all bids, or portions thereof, to waive minor irregularities and to award the Contract in the best interest of the County. Conditional or qualified bids are subject to rejection. 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.

4. METHOD OF AWARD

Contracts will be awarded to the responsible bidder submitting the lowest responsive bid. The lowest bid will be determined by the Total Aggregate on the Quotation Sheet.

5. 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").

6. MONTGOMERY COUNTY CODE AND PROCUREMENT REGULATIONS

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

7. 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.

No bids will be accepted unless submitted in ink or typewritten. Changes made to the prices bid prior to the opening must be done legibly and initialed by the offeror making the changes.

8. 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.

9. BIDDER'S PAYMENT TERMS

The County will reject as non-responsive a bid under this Informal Solicitation, which is conditioned on payment of proper invoices in less than thirty (30) days. However, this does not preclude a bidder from offering a prompt payment discount for payment of invoices in less than thirty (30) days.

10. 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.

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.

SECTION B: GENERAL TERMS AND CONDITIONS

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 knowing 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 and 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)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by				
Accident (each)	100	100	100	See
Disease (policy limits)	500	500	500	
Attachment				
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 Attachment	500	1,000	See
Minimum Automobile Liability (including owned, hired and non owned automobiles)				
Bodily Injury				
each person	100	250	500	See
each occurrence	300	500	1,000	
Attachment				
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

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

*Professional services contracts only

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

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>1,000</u>
Commercial General Liability minimum Attachment 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

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

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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.

THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.

SECTION C: SPECIAL TERMS AND CONDITIONS

1. GENERAL CONDITIONS

The General Conditions of Contract between County & Contractor (Section B) are incorporated and made part of this Informal Solicitation and any resultant contract, except that the insurance requirements listed in Provision 21 are replaced by the Mandatory Insurance Requirements on page 19.

2. COMPENSATION

The County will pay the Contractor in accordance with the unit prices set forth on the Quotation Sheet.

3. CONTRACT ADMINISTRATOR

The Contract Administrator, or designee, shall be responsible for inspecting all deliveries, authorizing payment upon acceptance and has the duties and responsibilities outlined in Paragraph 6, Contract Administration, of the General Conditions of Contract Between County and Contractor.

The designated Contract Administrator for the Department of Alcohol Beverage Services is Diane Wurdeman Alcohol Beverage Services/ Diane Wurdeman, 201 Edison Park Drive, Gaithersburg, MD 20878. Email Diane.Wurdeman@montgomerycountymd.gov, Phone: 240-876-3411.

4. TERM

The term of the contract is for 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 this term for two (2) additional one-year terms. However, total compensation under the contract resulting from this solicitation must not exceed \$99,999.00 for the entire contract term (initial term, plus any renewal terms exercised by the County). If the compensation under the contract resulting from this solicitation reaches this threshold, the contract resulting from this solicitation will terminate with no further cost, liability or obligation on the part of the County.

5. 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.

6. 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.

7. INVOICES

All true and corrected invoices and all inquiries regarding payment are to be sent to the Contract Administrator listed above. **Failure to promptly comply with this requirement must delay payment.**

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

SECTION D – SCOPE OF SERVICE

1. BACKGROUND

Montgomery County Government (MCG), Department of Alcohol Beverage Services (ABS or the "Department") sells retail and wholesale beverage alcohol, and has the need for on-site truck washing for the ABS delivery trucks.

SCOPE OF SERVICE

The intent of this Request for Quotation (RFQ) is to solicit bids for on-site truck washing for Alcohol Beverage Services (ABS), Montgomery County, as per the Terms, Conditions and Quotation Sheet contained herein. The On-site truck washing desired is on site; the vendor would arrive at the ABS warehouse at 201 Edison Park Drive; Gaithersburg, Maryland and wash 34 large trucks and 5 small trucks. The trucks noted as 'large' are tandem axle trucks that are 26 feet long and 13.5 feet tall. The trucks noted as 'small' are single axle trucks that are 18 feet long and 11 feet high. Exterior washing includes, but is not limited to, the manual soap scrubbing and water rinsing of the transit bus front and rear body panels, all windows, all external wheel assemblies, license plates and all exterior advertising. Contractor is required to provide their own water source for the washing.

Verbal explanations or instructions given by a Montgomery County employee to a bidder regarding this Informal Solicitation will not be 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 Informal 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. Such amendments only, when issued by the Contracting Officer will be considered as being binding on the County.

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.

2. METHOD OF AWARD

The Contract will be awarded to the responsible bidder submitting the lowest responsive bid as determined by the Director, Office of Procurement. The lowest bid is determined by the Total aggregate set forth on the Quotation Sheet.

3. COMPENSATION

Compensation must not exceed funds appropriated by the County and encumbered into a County Purchase Order issued to the Contractor. No services will be performed or compensated under the Contract resulting from this Solicitation prior to the execution of a County Purchase Order and the Contractor's receipt of said County Purchase Order. Compensation will be in accordance with the Quotation Sheet (Attachment A), as approved in the resulting contract.

Total compensation under the Contract (initial term, plus any optional renewal terms exercised by the County) must not exceed \$99,999.00.

4. PRICING

1. Prices are to be firm for the first TERM of the Contract.
2. Prices are to be inclusive of all associated costs, that is, but not limited to, administrative overhead, taxes, insurance, profit, the cost of any associated materials, travel, etc.

5. INVOICING

Invoices must be sent to the Contract Administrator designated by the County and must be in a format acceptable to the County. The County will make payment to the Contractor within thirty (30) calendar days following the County's receipt, acceptance and approval of the Contractor's invoice. The Contractor's invoices must be based on the Quotation Price Sheet included as a part of the contract resulting from this solicitation. The contract administrator for this Contract is: Diane Wurdeman, Alcohol Beverage Services, 201 Edison Park Drive, Gaithersburg, MD 20878
Diane.Wurdeman@montgomerycountymd.gov

6. .GENERAL CONDITIONS AND INSURANCE

The General Conditions of Contract Between County and Contractor ("Section B" to this Solicitation) ("General Conditions") will be incorporated by reference and made a part of the resulting contract. However, Paragraph 21, Insurance of the General Conditions will be superseded by the Mandatory Insurance Requirements listed on Page 19.

7. PRICE ADJUSTMENTS

Prices quoted are firm for a period of one (1) year after execution of the contract. Any request for a price adjustment after this one-year period is subject to the following:

1. Approval or rejection by the Director, Office of Procurement or designee
2. Submission 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 under the contract.
3. Submission within sixty (60) days prior to contract expiration date, if the contract is being amended.
4. The County will not approve a price adjustment request that exceeds the amount of 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 be based upon the CPI for all urban consumers issued for the Washington-Arlington-Alexandria, DC-VA-MD-WV, DC-MD-VA-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS.
5. The County will approve only one price adjustment for each contract term, if a price adjustment is approved. This will be effective sixty (60) days from the receipt of the Contractor's request.
6. The price adjustment, including its effective date, must be incorporated into a written contract amendment.

SUBMISSION REQUIREMENTS

Bids must include the following documentation:

- a. Completed Solicitation, Bid and Award Sheet (See Page 3)
- b. Completed Quotation Sheet (page 19)
- c. Completed Reference Document, which includes three (3) references that may be contacted to attest to the quality and timeliness of the Contractor's work of similar nature and scope to the bid requirements by the County. (See Page 4)
- d. Completed MFD Performance Plan (See pages 32 - 36).
- e. Completed Wage Requirements Law Form (PMMD-177)

Informal Solicitation RFQ #1161436

QUOTATION SHEET

Prices are net and must include ALL charges, including shipping/freight/delivery, necessary to provide the products listed below. The estimated annual quantities listed below are estimations only and do not express a commitment to purchase in those exact amounts.

The price includes arrival at the ABS warehouse at 201 Edison Park Drive; Gaithersburg, Maryland and washing 34 large trucks and 5 small trucks, using water provided by the Contractor. The trucks noted as 'large' are tandem axle trucks that are 26 feet long and 13.5 feet tall. The trucks noted as 'small' are single axle trucks that are 18 feet long and 11 feet high.

Item	Unit Price	Number of Trucks	Estimated Washes per year	Extended Total
Wash Large Truck	\$ _____	X 34	X 12	\$ _____
Wash Small Truck	\$ _____	X 5	X 12	\$ _____
Total Aggregate (items 1 and 2)				\$ _____

MANDATORY MINIMUM INSURANCE REQUIREMENTS – Wash ABS delivery vehicles at ABS locations

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 **five hundred thousand dollars (\$500,000), 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

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

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
Alcohol & Beverage Services
201 Edison Park Drive
Gaithersburg, MD 20878

MONTGOMERY COUNTY, MARYLAND
MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR
PERFORMANCE PLAN

Contractor's

Name: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTRACT NUMBER/PROJECT DESCRIPTION: 1161436

A. Individual assigned by Contractor to ensure Contractor's compliance with MFD Subcontractor Performance Plan:

Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

B. This Plan covers the life of the contract from contract execution through the final contract expiration date.

C. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is _____% of the total dollars awarded to Contractor.

D. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

I hereby certify that the business(s) listed below are certified by one of the following: Maryland Department of Transportation (MDOT); Federal SBA (8A); MD/DC Minority Supplier Development Council (MSDC); Women's Business Enterprise National Council (WBENC); or City of Baltimore.

A Certification Letter must be attached.

For assistance, call 240-777-9912.

1. Certified by: _____

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN ASIAN AMERICAN DISABLED PERSON
FEMALE HISPANIC AMERICAN NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor :

This subcontractor will provide the following goods and/or services:

2. Certified by:

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN ASIAN AMERICAN DISABLED PERSON
FEMALE HISPANIC AMERICAN NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

3. Certified by:

Subcontractor Name: _____

Title: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone Number: _____

Fax Number: _____

Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

4. Certified By: _____

Subcontractor Name: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

E. The following language will be inserted in each subcontract with a certified minority owned business listed in D above, regarding the use of binding arbitration with a neutral arbitrator to resolve disputes with the minority owned business subcontractor; the language must describe how the costs of dispute resolution will be apportioned:

F. Provide a statement below, or on a separate sheet, that summarizes maximum good faith efforts achieved, and/or the intent to increase minority participation throughout the life of the contract or the basis for a full waiver request.

G. A full waiver request must be justified and attached.

Full Waiver Approved:

Partial Waiver Approved:

_____ Date: _____
MFD Program Officer

_____ Date: _____
MFD Program Officer

Full Waiver Approved:

Partial Waiver Approved:

_____ Date: _____
Avinash G. Shetty
Director
Office of Procurement

_____ Date: _____
Avinash G. Shetty
Director
Office of Procurement

The Contractor submits this MFD Subcontractor Performance Plan (Plan Modification No. _____) in accordance with the Minority Owned Business Addendum to General Conditions of Contract between County and Contractor.

CONTRACTOR SIGNATURE

USE ONE:

1. TYPE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

2. TYPE CORPORATE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

I hereby affirm that the above named person is a corporate officer or a designee empowered to sign contractual agreements for the corporation.

Signature

Typed Name

Title

Date

APPROVED:

Avinash Shetty, Director, Office of Procurement

Date

Section 7.3.3.4(a) of the Procurement Regulations requires:

The Contractor must notify the Director, Office of Procurement of any proposed change to the Subcontractor Performance Plan.

PMMD-65 Rev. 04/19

Requirements for Services Contract
Addendum to The General Conditions of Contract Between County and Contractor

- A. This contract is subject to the Wage Requirements Law, found at Section 11B-33A of the Montgomery County Code (“WRL” or “11B-33A”). A County contract for the procurement of services must require the contractor and any of its subcontractors to comply with the WRL, subject to the exceptions for particular contractors noted in 11B-33A (b) and for particular employees noted in 11B-33A (f).
- B. Conflicting requirements (11B-33A (h)): If any federal, state, or County law or regulation requires payment of a higher wage, that law or regulation controls. For an existing County Contract, if an applicable collective bargaining agreement (CBA) that existed prior to May 10, 2016, governs the parties, then that CBA controls. If the term of the CBA mentioned in the preceding sentence ends during the Contract, the WRL will then control.
- C. A nonprofit organization that is exempt from the WRL under 11B-33A (b)(3), must specify, in each bid or proposal, the wage the organization intends to pay to those employees who will perform direct, measurable work under the contract, and any health insurance coverage the organization intends to provide to those employees. Section 11B-33A (c)(2).
- D. A contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor, to avoid the imposition of any requirement in 11B-33A. Section 11B-33A (c)(3).
- E. Each contractor and subcontractor covered under the WRL must: certify that it is aware of and will comply with the applicable wage requirements; keep and submit any records necessary to show compliance; and conspicuously post notices approved and/or supplied by the County, informing employees of the requirements in 11B-33A. Section 11B-33A (i).
- F. An employer must comply with the WRL during the initial term of the contract and all subsequent renewal periods, and must pay the adjusted wage rate increase required under 11B-33A (e)(2), if any, which is effective July 1 of each year. The County will adjust the wage rate by the annual average increase in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or successor index, for the previous calendar year and must calculate the adjustment to the nearest multiple of 5 cents. Section 11B-33A (e)(2).
- G. An employer must not discharge or otherwise retaliate against an employee for asserting any right, or filing a complaint of a violation, under the WRL. Section 11B-33A (i)(3).
- H. The sanctions under Section 11B-33 (b), which apply to noncompliance with nondiscrimination requirements, apply with equal force and scope to noncompliance with the wage requirements of the WRL. Section 11B-33A (i)(4).
- I. In the event of a breach of this contract as a result of a contractor’s or subcontractor’s violation of the WRL, the County may seek its available remedies, which include but are not limited to liquidated damages, withholding of payment, and recoupment of audit costs that are described below. The Contractor is jointly and severally liable for any noncompliance by a subcontractor. An aggrieved employee, as a third-party beneficiary, may, by civil action against the violating Contractor or subcontractor, enforce the payment of wages due under the WRL and recover from the Contractor or subcontractor any unpaid wages with interest, a reasonable attorney’s fee, and damages for any retaliation by the Contractor or subcontractor arising from the employee asserting any right, including filing a complaint under the WRL. Section 11B-33A (i)(5). Furthermore, the contractor expressly acknowledges that the County may assess liquidated damages against the Contractor in the event that it, as a covered employer, fails to pay the required wage, or violates the wage reporting or payroll records reporting requirement found at 11B-33A (g), including providing late or inaccurate payroll records.

(i) Liquidated Damages

The County may assess liquidated damages for any noncompliance by contractor or its subcontractor at the rate of 1% per day of the total contract amount, or the estimated annual contract value of a requirements contract, for each day of the violation. This liquidated damages amount in addition to the amount of any unpaid wages, with interest. The Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under the WRL are difficult to reasonably ascertain, and that the liquidated damages provided for in this paragraph is a fair and reasonable estimate of damages the County would incur as a result of contractor's or subcontractor's violation of the WRL.

(ii) Withholding of Payment

If the Director determines that a provision of the WRL has been violated, the Director must issue a written decision, including imposing appropriate sanctions and assessing liquidated damages (as outlined above) and audit costs (as outlined below), and may withhold from payment due the contractor, pending a final decision, an amount sufficient to: (a) pay each employee of the contractor or subcontractor the full amount of wages due under the WRL; (b) reimburse the County for audit costs; and (c) satisfy a liability of a contractor or subcontractor for liquidated damages.

(iii) Audit Costs

If the County determines, as a result of a WRL audit, that the Contractor has violated requirements of the WRL, the Contractor must reimburse to the County the cost incurred by the County in conducting the audit. Section 11B-33A (i)(2)(C).

- J. The County must conduct, and the contractor or subcontractor must comply with, random or regular audits to assure compliance with the WRL. Section 11B-33A (i)(2). The Director may conduct an on-site inspection(s) for the purpose of determining compliance. Some of the documents that may be required during an audit are listed on the Wage Requirements Law FAQ web page: <http://www.montgomerycountymd.gov/PRO/DBRC/WRL.html>

- K. The Contractor is in breach of this Contract if the Contractor fails to submit timely documentation demonstrating compliance with the WRL to the satisfaction of the Director, including: the Wage Requirements Law Payroll Report Form (PMMD-183), which is required to be submitted by the 14th day of the month following the end of each quarter (January, April, July, October); documents requested in conjunction with a random or regular audit by the County; or, documents otherwise requested by the Director. Section 11B-33A (g)(2).

If a contractor or subcontractor fails to submit, or is late in submitting, copies of any payroll record or other report required to be submitted under the WRL, the County may deem invoices unacceptable until the contractor or subcontractor provides the required records or reports, and may postpone processing payments due under the contract or under an agreement to finance the contract.

For any questions, please contact the Wage Requirements Law Program Manager at 240-777-9918 or WRL@montgomerycountymd.gov.

Wage Requirements Law Certification

(Montgomery County Code, Section 11B-33A)

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Provide, in the spaces below, the contact name and information of the individual designated by your firm to monitor your compliance with the County’s Wage Requirements Law, unless exempt under Section 11B-33A (b) (see Section B. below):

Contact Name		Title	
Phone Number		Fax Number	
E-mail Address			

In the event that you, the “Offeror,” are awarded the contract and become a Contractor, please check the box(es) below that apply, and leave all of the other boxes blank.

A. Wage Requirements Compliance

This Contractor, as a “covered employer”, must comply with the requirements under Montgomery County Code Section 11B-33A, “Wage Requirements” (“Wage Requirements Law” or “WRL”). Contractor and its subcontractors must pay all employees not exempt under the WRL, and who perform direct measurable work for the County, the required gross wage rate effective at the time the work is performed. For employees who are not paid an hourly wage, Contractor’s compliance with the WRL must be measured by dividing the amount paid to the employee each pay period by the number of hours worked by that employee during each pay period. A covered employer must not make any deduction for any item necessary for an employee to perform the essential job function unless the deduction is permitted by Executive Regulation. The offer price(s) submitted under this solicitation include(s) sufficient funds to meet the requirements of the WRL. A “covered employer” must submit, within 14 days after the end of each quarter (by the 14th of January, April, July, and October, for the quarter ending the preceding month), certified payroll records for each payroll period and for all employees of the contractor or a subcontractor performing services under the County contract governed by the WRL. The payroll records must contain a statement signed by the contractor or subcontractor certifying that the payroll records are correct and the wage rates paid are not less than those required by the WRL. These payroll records must include the following: name, address and telephone number of the contractor or subcontractor; the name and location of the job; and each employee’s name, current home address, daily straight time and overtime hours, total straight time and overtime hours for the payroll period, rate of pay, fringe benefits by type and amount, gross wages, race and gender of the employee, and the employer and the employee share of any health insurance premium provided to the employee. The Contractor must ensure that **NO** Social Security number of any person, other than the last four digits, is included on the quarterly report. A sample, blank Payroll Report Form, for your use and completion, can be found at:

<http://www.montgomerycountymd.gov/PRO/DBRC/WRL.html> . The above must be submitted to the

Division of Business Relations and Compliance, Attn: Wage Requirements Law Program Manager (preferably via email to WRL@montgomerycountymd.gov),

Each Contractor must: keep payroll records covering work performed on a contract covered by the WRL for not less than 5 years after the work is completed; and, subject to reasonable notice, permit the County to inspect the payroll records at any reasonable time and as often as the County deems necessary. If the Contractor or subcontractor fails to submit, or is late in submitting, copies of any payroll record or other report required to be submitted under the WRL, the County may deem invoices unacceptable until the Contractor or subcontractor provides the required records or reports, and may postpone processing payments due under the contract or under an agreement to finance the contract. A violation of the WRL, including the late submission or non-submission of the information noted above, may result in action by the County, including: (a) withholding contract payments, reducing payment amounts, or otherwise assessing damages against Contractor, in an amount sufficient to: (i) pay each employee of the Contractor or subcontractor the full amount of wages due under the WRL; (ii) reimburse the County for audit costs; or (iii) satisfy a liability of a contractor or subcontractor for liquidated damages; (b) terminating the contract; or, (c) otherwise taking action to enforce the contract or the WRL. Violation of the WRL may also result in a finding of non-responsibility for a future contract, or may form the basis for debarment or suspension.

B. Exemption Status (if applicable)

This Contractor is exempt from Section 11B-33A, "Wage Requirements," because it is:

1. Reserved – [Intentionally left blank].
2. a contractor who, at the time a contract is signed, has received less than \$50,000 from the County in the most recent 12-month period, and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Section 11B-33A (b)(1).
3. a public entity. Section 11B-33A (b)(2).
4. a non-profit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. Section 11B-33A (b)(3) (**must also complete item C below**).
5. an employer expressly precluded from complying with the WRL by the terms of any federal or state law, contract, or grant. Section 11B-33A (b)(7) (**must specify the law, or furnish a copy of the contract or grant**).

C. Nonprofit Wage & Health Information

This Contractor is a non-profit organization that is exempt from coverage under Section 11B-33A (b)(3). The contractor must provide proof of its 501(c)(3) status (i.e.

Letter from the IRS). Accordingly, the contractor has completed the 501(c)(3) Non-profit Organization's Employee's Wage and Health Insurance Form which is attached. See Section 11B-33A(c)(2). (**must also complete box B.4. above**)

D. Sole Proprietorship

Sole Proprietorships are subject to the WRL. In order to be excused from the posting and reporting requirements of the WRL, the individual who is the sole proprietor must sign the certifications below in order to attest to the fact that the Sole Proprietorship:

- (1) is aware of, and will comply with, the WRL, as applicable;
- (2) has no employee other than the sole proprietor; and
- (3) will inform the Montgomery County Division of Business Relations and Compliance if the sole proprietor employs any worker other than the sole proprietor.

Note: A schedule C from the employer's federal tax return may be required for verification purposes.

E. Sub-Contractors

It is the prime contractor's responsibility to ensure all of its subcontractors adhere to the WRL. All subcontractors are required to submit quarterly payroll reports. It is the prime contractor's responsibility to collect these payroll reports and submit them to wrl@montgomerycountymd.gov on a quarterly basis.

I intend to use Sub-Contractors if I am awarded a contract as a result of this solicitation.

I do **NOT** intend to use Sub-Contractors if I am awarded a contract as a result of this solicitation. If at any time during the course of the contract I use Sub-Contractors, I understand that I am responsible for their quarterly payroll reporting.

F. Independent Contractors

I intend to use Independent Contractors if I am awarded a contract as a result of this solicitation.

If this box is checked, you must complete the Wage Requirements Law Independent Contractor Certification (PMMD193) in order for your bid/offer to be considered. It can be found at: <https://www.montgomerycountymd.gov/PRO/Resources/Files/PMMD-193.pdf>

I do **NOT** intend to use Independent Contractors if I am awarded a contract as a result of this solicitation. If at any time during the course of the contract I use Independent Contractors, I understand and agree that I must complete the Wage Requirements Law Independent Contractor Certification (PMMD193). See above link.

Contractor Certification

CONTRACTOR SIGNATURE: Contractor submits this certification form in accordance with Section 11B-33A of the Montgomery County Code. Contractor certifies that it, and any and all of its subcontractors that perform services under the resultant contract with the County, adhere to Section 11B-33A of the Montgomery County Code.

Authorized Signature		Title of Authorized Person	
Typed or Printed Name		Date	

Web-links for Documents and Forms:

1. Central Vendor Registration System (www.mcipcc.net)
2. Frequently Asked Questions, Procurement (<https://www.montgomerycountymd.gov/PRO/vendor-resources/faq.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/SolForm/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 E:** Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor (www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-91.pdf)