HENNEPIN COUNTY
MINNESOTA

Invitation for Bids

E-Rate Network Equipment

Bids due by: December 22, 2026, 2:00 p.m.

Submit questions by: December 9, 2026, 2:00 p.m.

Special Terms and Conditions

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1 Overview

The County of Hennepin, State of Minnesota ("County") is soliciting bids for E-Rate Network Equipment for the Hennepin County Library. The purpose of these Special Terms and Conditions is to establish additional terms, conditions, and requirements for network equipment and associated services that are anticipated to be partially funded by E-Rate. In the event of a conflict between the Bid Documents, the following order of precedence will prevail: 1) Special Terms and Conditions; 2) Standard Terms and Conditions; and 3) Instructions to Bidders.

2 E-Rate sequence

The County may leverage E-Rate funding for financial assistance in the procurement of the network equipment and associated services. The County is seeking to use FY27 E-Rate funding. The E-Rate sequence is as follows:

- Before April 1, 2027 – County awards Contract
- On or after April 1, 2027 – County issues purchase order to Contractor
- Within approximately 2 months of issuance of Hennepin County purchase order – Contractor delivers network equipment

This sequence is subject to revision or cancellation by the County in its sole and absolute discretion.

3 E-Rate compliance

The Contractor is required to be in full compliance with all current and future E-Rate requirements issued by the Universal Service Administrative Company (USAC) throughout the contract period.

The Contractor is responsible for providing a valid SPIN and filling all required registration and compliance forms. To obtain a SPIN number, see Service Provider Process at USAC's website: Service Provider Process - Universal Service Administrative Company.

Bidders must comply with the FCC rules for Lowest Corresponding Price. Further details may be obtained at USAC's website: Lowest Corresponding Price - Universal Service Administrative Company.

4 Minimum qualifications

Bidder must meet the following minimum qualifications to be considered for a contract award:

- Be authorized to sell the network equipment that Bidder bid
- Have a 498 ID/Service Provider Identification Number (SPIN)

5 Specifications

See the Bid Proposal Form for specifications of the network equipment and services.

6 Basis of contract award

The County intends to award a contract to the lowest priced responsible Bidder that submitted a responsive Bid.

The County reserves the right to reject all bids for any reason, including if the E-Rate funding source is unavailable.

7 Preparing a bid

Bidders shall use the Bid Proposal Form worksheet to prepare their bids, and shall follow the instructions on the Bid Proposal Form. Include unit pricing for each item listed in the Bid Proposal Form. Bidder must incorporate all its costs in its unit bid prices, including but not limited to delivery and tariffs.

8 Brand name or equivalent

Brand name is the identification of products by manufacturer, make, model name and/or part number. To promote free and full competition, the County will also consider proposed equivalent products. Bidders are encouraged to propose equivalent products. Equivalent products must be equivalent in quality and characteristics to the stated brand name product.

Whenever an item is identified by using a brand name, the intent is:

- To be descriptive, not restrictive; and
- To indicate the quality and characteristics desired.

To bid an equivalent product, enter the information requested on the Bid Proposal Form. The County will request additional information about equivalent products bid after bids are opened. Determination of approval as an equivalent product will be made final by the County at its sole discretion.

9 Firm bid period

Bids will remain firm offers through April 1, 2027 or the date in which a contract is awarded, whichever is earlier. Bidder may not withdraw its Bid during this firm bid period.

10 Contract period

The contract period is the date specified on the Notice of Award to September 30, 2028. The contract period may not be extended beyond September 30, 2028; Section 6 of the Standard Terms and Conditions titled “Contract Period” is hereby deleted.

11 Contract prices

Contract prices are the bid prices of the awarded Contractor. Contract prices must be held firm throughout the contract period.

The County will only pay the unit bid prices for the products and services listed on the Contractor's Bid Proposal Form. County will not pay for other categories of items not listed on the Bid Proposal Form such as delivery and tariffs.

12 Delivery

Following receipt of a County purchase order, delivery of the network equipment shall be made to:

Hennepin County Government Center
ATTN Nate Doolittle MC 00
300 S 6th St.
Minneapolis, MN 55487

Dock entrance/exit height is 12'6" and width is 12'4".
Schedule deliveries by contacting Facility Services Call Center: fixit@hennepin.us 612-543-3948
If possible, please do not let pallet height exceed 80".

13 Invoicing

The County plans to use BEAR billing and the Contractor must be able to accommodate BEAR billing.

14 Federal award contract provisions addendum

The Contractor shall comply with the Federal Award Contract Provisions Addendum, attached as Exhibit A.

15 Quantities

The quantity specified for each item on the Bid Proposal Form is a firm quantity. Section 2.3 of the Standard Terms and Conditions titled "Expansion of Scope of Work" is hereby deleted.

16 Purchase order authorization

The County shall have no obligation to the Contractor unless and until the County issues a valid Purchase Order. The award of a Contract shall not constitute a commitment to purchase any network equipment or services.

Federal Award Contract Provisions Addendum

This Federal Award Contract Provisions Addendum is attached and incorporated into the foregoing agreement (the "Agreement").

Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed in the Agreement. Additionally, the term "contract" shall mean the "Agreement"; the terms "contractor", "Contractor", and "CONTRACTOR" shall mean the party identified as "CONTRACTOR" or "PROVIDER" in the Agreement; and the terms "APPLICANT" and "COUNTY" shall mean the COUNTY OF HENNEPIN, STATE OF MINNESOTA. Citations included throughout this Addendum are for guidance and not determinative.

The provisions below may be applicable pursuant to (i) applicable federal law, including 2 C.F.R., Part 200, Appendix II (see, especially, 2 C.F.R. §200.327); (ii) COUNTY's application of federal awards to this transaction; and/or (iii) the nature and cost of the transaction.

In addition to CONTRACTOR's compliance with applicable provisions, CONTRACTOR shall ensure that its subcontractors or other parties performing on CONTRACTOR's behalf comply with the applicable provisions and confirm the same with necessary provisions in its subcontracts.

1) Remedies.

   The remedy provisions in the Agreement shall apply.

2) Termination For Cause and/or For Convenience.

   The termination provisions in the Agreement shall apply.

3) Equal Employment Opportunity.

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

   A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

      Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment,

notices to be provided setting forth the provisions of this nondiscrimination clause.

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

C. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

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

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

1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

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

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

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

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

until satisfactory assurance of future compliance has been received from such APPLICANT; and refer the case to the Department of Justice for appropriate legal proceedings.

4) Davis-Bacon Act.

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

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

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

5) Copeland Anti-Kickback Act.

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

B. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as federal agencies awarding funds to COUNTY, which funds are used by COUNTY in association with this Agreement, may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

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

6) Contract Work Hours and Safety Standards Act.

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

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

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

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

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

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

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

A. Clean Air Act.

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the federal agencies awarding funds to COUNTY, which funds are used by COUNTY in association with this Agreement, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract hereunder that exceeds $150,000.

B. Federal Water Pollution Control Act.

(1) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the federal agencies awarding funds to COUNTY, which funds are used by COUNTY in association with this Agreement, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract hereunder that exceeds $150,000.

9) Debarment and Suspension.

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

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

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

D. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and

throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10) Byrd Anti-Lobbying Amendment.

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

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

11) Procurement of Recovered Materials.

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

(1) Competitively within a timeframe providing for compliance with the contract performance schedule;
(2) Meeting contract performance requirements; or
(3) At a reasonable price.

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

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

12) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

A. Contractor is prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(a) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(b) Telecommunications or video surveillance services provided by such entities or using such equipment.

(c) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

B. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

C. See Public Law 115-232, section 889 for additional information.

D. See also § 200.471.

13) Domestic preferences for procurements.

A. Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the

United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts including all contracts and purchase orders for work or products under this contract.

B. For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

14) Partnerships with Faith-Based and Neighborhood Organizations (Executive Order 14015, Feb. 14, 2021; Federal Register, Vol. 89, No. 43)

A. A faith-based organization that participates in this program retains its independence from the Government and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law.

B. A faith-based organization may not use direct Federal financial assistance from Hennepin County and/or the federal government to support or engage in any explicitly religious activities except when consistent with the Establishment Clause and any other applicable requirements. An organization, business, non-profit organization, partnership, limited liability corporation or partnership, corporation, individual, or other entity receiving Federal financial assistance also may not, in providing services funded by Hennepin County and/or the federal government, or in their outreach activities related to such services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

C. All organizations receiving federal money through Hennepin County to provide social services shall provide the following notice to beneficiaries of the protections listed herein:

Name of Organization:

Name of Program:

Contact Information for Federal Grant Program Office (name, phone number, and email address, if appropriate):

Because this program is supported in whole or in part by financial assistance from the Federal Government, we are required to let you know that:

(1) We may not discriminate against you on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;

(2) We may not require you to attend or participate in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) that may be offered by our organization, and any participation by you in such activities must be purely voluntary;

(3) We must separate in time or location any privately funded explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) from activities supported with direct Federal financial assistance;

(4) You may report violations of these protections, including any denials of services or benefits by an organization, by contacting or filing a written complaint with the grant program office using the contact information set forth above; and

(5) If you would like to seek information about whether there are any other federally funded organizations that provide these kinds of services in our area, please use the contact information set forth above.

This written notice must be given to you before you enroll in the program or receive services from the program, unless the nature of the service provided or exigent circumstances make it impracticable to provide the actual service. In such an instance, this notice must be given to you at the earliest available opportunity.

HENNEPIN COUNTY
MINNESOTA

Standard Terms and Conditions



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1. DEFINITIONS

"Affiliates" – Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has the power to control the other, or (2) a third-party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a contractor which has the same or similar management, ownership, or principal employees as the contractor that was debarred, suspended, or proposed for debarment.

"Contract Documents" – These Standard Terms and Conditions; the Purchase Order(s); all of the documents in the bid solicitation package, as applicable, including but not limited to the following: Instructions to Bidders, Special Terms and Conditions, specifications, drawings, exhibits, attachments, addenda, and any other documents, comments, or descriptions which County references in the solicitation; Contractor's bid, as applicable; and other County forms, as applicable.

"Contractor" – The person, firm, corporation, or other entity who enters into a contract with County to furnish Goods and/or services.

"County" – The County of Hennepin, a political subdivision of the State of Minnesota.

"Goods" – Tangible items. Includes commodities, products, materials, supplies and equipment.

"Notice of Award" – Written notification from the Purchasing Manager to a vendor conditionally awarding or awarding the contract.

"Performance Bond and/or Payment Bond" – A form of security executed by Contractor that guarantees the proper performance of the contract, the payment of debts to persons furnishing services or materials on account of the contract work, and the payment of certain other responsibilities of Contractor.

"Purchase Order" – A document issued by County to initiate a purchase transaction with Contractor. Purchase Orders include and are governed by these Standard Terms and Conditions.

"Purchasing Director" – County representative who manages the Purchasing and Contract Services department and has been delegated the authority to award most contracts for Goods and services that have been solicited by bid, or their designee.

"Software" – , Contractor provided software/application products that are identified in the Contract Documents or that are otherwise provided hereunder, including software embedded in Goods, along with all Software updates that, at least, are made available to Contractor's similarly situated customers.

"Subcontractor" – A person, firm, corporation, or other entity hired by Contractor to perform hereunder.

2. SCOPE OF WORK, COMMENCEMENT OF WORK

2.1. Scope of Work

a. Contractor shall provide the Goods and/or services specified within the Contract Documents.

b. County reserves the right to award other contracts, use any other contractor, or perform the work with its own employees for the provision of the Goods and/or services hereunder.

2.2. Purchase Order

a. A Purchase Order will be used as County's document to initiate a purchase transaction with Contractor. Contractor shall not provide Goods and/or services hereunder until Contractor receives a Purchase Order. If Contractor provides Goods and/or services without an approved Purchase Order, County shall have no liability or obligation to Contractor for the unapproved Goods and/or services.

b. There will be no minimum order requirements or charges to process an individual Purchase Order unless otherwise specified in the Contract Documents.

c. County may cancel a Purchase Order by providing written notice to Contractor. County will pay for documented specific and direct costs that have been incurred under the Purchase Order prior to the effective cancellation date. Contractor shall make best efforts to minimize the costs and wind down the Purchase Order.

2.3. Expansion of Scope of Work

The contract may be expanded as mutually agreed. Such expansion must be approved in writing by the Purchasing Director. The following criteria will be collectively considered: (1) the change is for a reasonable purpose; (2) the change was not reasonably known to County at the time the Contract Documents were developed or was mentioned as a possibility in the Contract Documents (e.g. change in regulation or law); (3) the change is not significant enough to be reasonably regarded as an independent body of work; (4) the change could not have attracted a different field of competition; and (5) the change does not modify the main purpose of the contract. The Purchasing Director shall make this determination, and may take exceptions for immaterial changes, emergency, or sole source conditions, or for other situations in the opinion of the Purchasing Director. Certain changes are not considered an expansion of scope, including an increase in quantities ordered or the exercise of options or alternates in any Contract Documents. Notwithstanding anything to the contrary, County reserves its right to expand a contract if it determines that it is in County's best interest.

2.4. Adjustments to Scope of Work

The Purchasing Director may make reasonable changes in the destination address, installation, testing, inspection, shipment method, packing, labeling, invoicing, and ancillary matters that Contractor may accommodate without additional expense to County.

2.5. Submittals

No portion of the Goods and/or services shall be provided or commenced that requires submission of a shop drawing, manufacturer's literature, test data, a sample, or other information until the submittal has been approved by County.

2.6. Buy vs. Lease

Contractor shall notify County if the projected rental of the Goods equals or exceeds eighty percent (80%) of the purchase price of the Goods. County will determine if it is in its best interest to purchase the Goods.

2.7. License Grant Software

a. If applicable and unless the parties otherwise agree in writing, Contractor hereby grants to County a fully paid-up, irrevocable, nonexclusive, perpetual license to use the licensed Software, in connection with County's business in a manner configured by County plus any licensed Software which shall be added to the Software and to make reasonable copies for back-up and training.

b. Any other license terms and conditions supplied by Contractor with the Software (e.g. "shrinkwrap", installation screen license terms, terms contained on an order form or invoice) or otherwise shall have no effect and are superseded by the Contract Documents.

3. PERFORMANCE

3.1. Shipping

a. Contractor shall, at its own expense, pay and bear all freight charges, and bear the risk of transporting Goods to the destination designated by County. Title passes to County in accordance with Section 4.3(a).

b. Shipping containers must be packed and shipped according to the requirements of common carriers, in a manner that ensures the least damage to Goods in transit. Labels must be affixed to all shipping containers showing: (1) destination address; (2) Purchase Order number; and (3) Goods name. Labeling of hazardous substances must also comply with labeling requirements stated in applicable law, including but not limited to the Federal Hazard Communication Standard (29 CFR 1910.120) and the State's Employee Right-to-Know Act (Minn. Stat. section 182.65). Shipping containers, including individual containers within shipping containers, that contain a hazardous substance(s) must be tagged or marked with: (1) the identity of the hazardous substance(s); (2) the appropriate hazard warnings; and (3) the name and address of the chemical manufacturer, importer, or other responsible party.

c. A packing list or other shipping document must accompany each shipment and show: (1) name and address of Contractor and Contractor's contact; (2) destination address; (3) Purchase Order number; (4) a description of Goods shipped, including catalog/Goods numbers, quantities, number of containers and container numbers, if any; and (5) consecutive numbering series and a list of missing numbers, if any.

d. Contractor will be liable for any extra freight charges or damages that arise from failure to follow shipping and labeling instructions.

e. County and Contractor will provide information or documentation within their knowledge or possession that would be reasonably helpful for the prosecution of claims or resolution of disputes with carriers.

3.2. Permits, Fees, Notices

a. Unless otherwise specified by County in the Contract Documents, Contractor, at its own expense, shall secure all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract.

b. Contractor shall give all notices required under law, statute, ordinance, rule, and regulation.

3.3. Protection of Persons and Property

a. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (1) persons at the site and other persons who may be affected thereby; (2) Contractor's work and materials and equipment which are under the care, custody and control of Contractor or any of Contractor's Subcontractors; and (3) other property at the site or adjacent thereto.

b. Contractor shall promptly remedy damage or loss to property caused in whole or in part by Contractor, its employees, officers, agents or Subcontractors.

3.4. Supervision and Use of Site

a. Contractor shall be responsible for the acts and omissions of its employees, officers, agents or Subcontractors ("Contractor's personnel").

b. CONTRACTOR shall comply with COUNTY's rules, policy, and direction regarding use of COUNTY facilities. Contractor shall ensure that Contractor's personnel obey all County security rules at the site. Contractor shall at all times enforce professional behavior among Contractor's personnel at the site and shall not employ any unqualified person or anyone not skilled in the assigned task. County may deny access to any County facility at any time and may remove any Contractor's personnel from County facilities at any time and in County's sole discretion. Contractor shall not allow unauthorized personnel to use County facilities.

c. Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and specified in the Contract Documents and shall not encumber the site with any materials or equipment.

3.5. Clean Up

Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by its operations.

3.6. Time is of the Essence

This is a time is of the essence contract.

3.7. Delays; Extension or Suspension of Performance

a. Contractor's requests for delays in providing Goods and/or services hereunder may be granted by the Purchasing Director on a case-by-case basis.

b. County shall have the right to suspend the delivery of Goods or performance of services, or any part thereof, for: (1) non-compliance with the provisions of the Contract Documents; (2) refusal and/or the failure to carry out the requirements of the contract; or (3) public safety reasons.

County will provide written notice to Contractor regarding the reason(s) for such suspension. The provision of Goods and/or services shall be suspended until such time as the reason for the suspension has been corrected to County's satisfaction. Suspension pursuant to the foregoing shall not limit or modify the other rights available to County hereunder or by applicable law.

3.8. Affiliate Purchases

Purchases of Goods and services made by an Affiliate of Contractor, where the costs of the purchase are passed through to County, shall be made competitively and comparable to similar or exact types of purchases in the open market. Affiliates will not be considered Subcontractors or independent businesses to Contractor. Contractor shall notify County of all Affiliate transactions. Upon County's request, Contractor shall provide detailed documentation to verify that Affiliate purchase prices are comparable to similar or exact types of purchases in the open market.

4. ACCEPTANCE OR REJECTION

4.1. Inspection

Contractor's Goods and/or services shall be subject at all times to inspection and approval by County. Contractor shall provide sufficient, safe, and proper facilities and equipment for the making of such inspection and free access to such facilities and equipment. However, the making (or failure or delay in making) of such inspection or approval shall not relieve Contractor's responsibility for providing Goods and/or services in accordance with the Contract Documents.

4.2. Acceptance, Rejection of Goods and Services

County shall not be obligated to pay any amount for any Goods and/or services provided hereunder until County has accepted the same. Goods and/or services shall not be deemed accepted until County completes receipt, inspection and acceptance upon County's determination of conformance to the Contract Documents. County may reject Goods and/or services upon notice to Contractor without the requirement to specify the reason(s) for rejection. County may return non-conforming Goods, require Contractor to replace non-conforming Goods, or require Contractor to repair non-conforming Goods to meet requirements, at Contractor's cost. County may demand that Contractor re-perform non-conforming services.

4.3. Title – Risk of Loss

a. Title to Goods and all associated documentation whatsoever shall pass to County upon County's acceptance.
b. County shall be relieved from all risks of loss or damage to Goods and Software during periods of transportation and installation and during the entire time the Goods and Software are in the possession of County until acceptance thereof by County. Upon acceptance by County, the risk of loss or damage to said Goods and Software shall pass to County. Contractor shall not be responsible for loss or damage to Goods and Software occasioned by negligence of County or its employees.

5. PRICES AND PAYMENTS

5.1. Contract Prices

Contract prices shall include all costs to provide the Goods and/or complete the services, including but not limited to, delivery/freight to the destination designated in the Contract Documents, handling, installation, assembly, insurance, licenses, and royalties.

5.2. Invoices

a. Applications for payment may be in the form of Contractor's standard invoice. The invoice shall contain the Purchase Order number, Contractor's unique invoice number, the contract number, an itemized list and description of Goods and/or services provided hereunder, County's item number for each item (contained in the Contract Documents), the delivery destination, the date of shipment, and itemized sales tax, if applicable.

b. Invoices containing any charge not specified in the Contract Documents will be rejected.

c. Invoices containing any charge for Goods or services not specified in the Contract Documents will be rejected.

d. Contractor shall submit invoices after the completion of services or acceptance of Goods.

e. Contractor shall submit invoices within two (2) months of the completion of services or acceptance of Goods, to the accounts payable address specified in the Purchase Order.

f. Contractor shall not submit invoices more than once a month unless otherwise specified by County.

g. Claims made by Contractor are subject to the Minnesota False Claims Act.

5.3. Payments

a. Payments shall be made in the manner provided by law for payments of claims and/or invoices.

b. Payment shall be made within thirty (30) calendar days of date of receipt of an invoice in conformance with Section 5.2(a).

c. No payment will be made for production overruns in excess of the quantity ordered by County.

d. No payment shall constitute an acceptance of any Goods or services.

e. County will consider discounts for early payment as stated within the Contract Documents.

f. As required by Minnesota Statutes section 471.425, subd. 4a, Contractor shall pay any Subcontractor within ten (10) days of Contractor's receipt of payment from County for undisputed services provided by Subcontractor.

g. County may withhold from any payment due to Contractor any amount which is due and owing County under this or any other agreement between the parties due to overpayment or as a result of an audit.

6. CONTRACT PERIOD

6.1. Initial Contract Period

Unless otherwise specified in the Contract Documents, the contract period shall commence on the day specified in the Notice of Award and shall terminate in twelve (12) months. The date that Contractor shall commence provision of Goods and/or services shall be the date established in a Purchase Order.

6.2. Extension

a. Unless otherwise specified in the Contract Documents, the contract period may be extended for additional periods with the mutual consent of County and Contractor. The length of each extension period shall not exceed the length of the original contract period and each extension period shall be governed by the then current price, terms and conditions. If County desires to extend the contract, the Purchasing Director will so advise Contractor.

b. If the parties have not mutually agreed to an extension period in writing, the parties may continue with a monthly extension with no change to the then current price, terms and conditions. The continuing performance of the contract shall represent each party's acceptance of the month-to-month extension.

7. DEFAULT AND REMEDIES

7.1. Default and Termination

a. If Contractor: (1) is adjudged as bankrupt; or (2) makes a general assignment for the benefit of its creditors; or (3) has a receiver appointed on account of its insolvency; or (4) disregards any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or (5) refuses or fails, except in cases for which extension of time is granted, to provide Goods and/or services in accordance with the requirements of the Contract Documents; or (6) is otherwise guilty of a violation of any provision of the contract; then County may, without prejudice to any right or remedy and after giving Contractor, and its surety, if any, seven (7) calendar days written notice, terminate the contract.

b. Upon written notice, County may immediately suspend or terminate this Agreement in the event any of the following occur: (1) County does not obtain anticipated funding from an outside source for the goods or services; (2) funding for the goods or services from an outside source is withdrawn, frozen, shut down, is otherwise made unavailable or County loses the outside funding for any other reason; or (3) County determines, in its sole discretion, that funding is, or has become, insufficient. County is not obligated to pay for any goods or services that are provided or costs or expenses or obligations incurred or encumbered after the notice and effective date of the suspension or termination. In the event County suspends or terminates this Agreement pursuant to this paragraph, County shall pay any amount due and payable prior to the notice of suspension or termination except that County shall not be obligated to pay any amount as or for penalties, early termination fees, charges, time and materials for services not then performed, costs, expenses or profits on work done.

c. Either party may terminate the contract for any reason, with or without cause, upon ninety (90) calendar days prior written notice to the other party, unless otherwise specified by County in the Contract Documents.

7.2. Rights and Remedies

a. Notwithstanding any provision of the contract to the contrary, Contractor shall remain liable to County for damages sustained by County by virtue of any breach of the contract by Contractor. Upon notice to Contractor of the claimed breach and the amount of the claimed damage, County may withhold any payments to Contractor for the purpose of set-off until such time as the exact amount of damages due to County from Contractor is determined. Following notice from County of the claimed breach, Contractor and County shall attempt to resolve the dispute in good faith.

b. If Contractor fails to provide Goods and/or services to meet deadlines in accordance with the Contract Documents for any reason except delays caused by force majeure, County has the right to: (1) purchase those Goods and/or services on the open market, or purchase those Goods and/or services necessary to continue functioning until Contractor provides those Goods and/or services; and (2) to withhold any payments to Contractor for the purpose of set-off as the difference between Contractor's contract price and the higher price or the cost of temporary Goods and/or services paid for by County on the open market and any additional costs that County may incur. Any monies deducted are not a penalty but are damages to compensate for the additional costs incurred by County.

c. Acceptance by County of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach, or terminate the contract, nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

d. If, as a result of any claim of infringement of rights, Contractor is enjoined from using, marketing, or supporting any Goods and/or services provided hereunder, or if Contractor comes to believe such enjoinment imminent, Contractor shall either arrange for County to continue using the Goods and/or services at no additional cost to County or propose another remedy subject to County approval. County alone will determine whether proposed substitutes are sufficiently equivalent. Subject to the provisions below, if no acceptable alternative is available even after Contractor's best efforts, Contractor shall return a pro rata portion of County's costs pertaining to the license fee, if any, and all consequential costs based on a period of five (5) years. If the Goods cannot operate in accordance with the Contract Documents without the Software, Contractor shall return a pro rata portion of County hardware cost based on a period of five (5) years unless a longer or shorter period is specified by County in the Contract Documents.

e. County's failure to insist upon strict performance of any covenant, agreement, term, condition, or stipulation of the Contract Documents or to exercise any right contained therein shall not be a waiver or relinquishment of any such covenant, agreement, term, condition, stipulation, or right unless County consents thereto in writing. Any such written consent shall not constitute a waiver or relinquishment of the future of such covenant, agreement, term, condition, stipulation or right.

f. All rights and remedies set forth in the Contract Documents are in addition to and not a limitation of any rights and remedies otherwise available under the order, law or equity.

8. INSURANCE, INDEMNIFICATION, LIABILITY AND BONDS

8.1. Contractor's Insurance

a. With respect to the Goods and/or services provided hereunder, Contractor shall, at its sole expense, procure and maintain insurance of the types, and in the form and amounts described below from insurer(s) authorized to transact business in the state where services or operations will be performed by Contractor. Such insurance and required coverage shall be in forms acceptable to County. The insurance requirements described below shall be maintained uninterrupted for the duration of the contract and beyond such term when so required, and shall cover Contractor, and others for whom and/or to whom Contractor may be liable, for liabilities in connection with Goods and/or services provided for or on behalf of County, its agents, representatives, employees or contractors. Contractor is required to have and keep in force the following minimum insurance coverages or Contractor's actual insurance limits for primary coverage and excess liability or umbrella policy limits, whichever is greater:

Limits

1) Commercial General Liability (CGL) on an occurrence basis with contractual liability coverage (this coverage shall be written on the most current ISO (Insurance Services Office, Inc.) CGL form or its equivalent provided XCU (explosion, collapse and underground) is not excluded):

General Aggregate	$2,000,000
Products—Completed Operations Aggregate	2,000,000
Personal and Advertising Injury	1,500,000
Each Occurrence—Combined Bodily Injury and Property Damage	1,500,000

2) Workers' Compensation and Employer's Liability:

Workers' Compensation Statutory

If Contractor is based outside the state of Minnesota, coverage must comply with Minnesota law. County will accept self-insurance certificate of Contractor if Contractor is self-insured under Minnesota law. If Contractor is a sole proprietor, it is exempted from the above Workers' Compensation requirements to the extent provided by Minnesota law. In the event that Contractor should hire employees or subcontract this work, Contractor shall obtain the required insurance and submit an updated certificate.

Employer's Liability. Bodily injury by:

Accident—Each Accident	500,000
Disease—Policy Limit	500,000
Disease—Each Employee	500,000

3) Automobile Liability 500,000

If Contractor drives or operates an automobile in order to perform services under this Agreement, then Contractor shall maintain automobile liability and, if necessary, commercial umbrella insurance. Such insurance shall cover liability for bodily injury and property damage arising from the use or operation of any auto, including those owned, hired or otherwise operated or used by or on behalf of Contractor.

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

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

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

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

Contractor shall ensure that all of Contractor's subcontractors (i) independently carry insurance appropriate to cover the subcontractors' exposures and that meet or exceed Contractor s coverage limits; or (the Required Insurance Coverages set forth in the table above; (ii) are covered under the Contractor 's policies; or (iii) or both. Contractor is responsible for monitoring its subcontractors' proof of insurance to ensure compliance with the foregoing obligations. Copies of certificates of insurance shall be maintained by Contractor and shall be supplied to County upon request.

Contractor shall not commence the provision of Goods and/or services until it has obtained required insurance and filed with County a properly executed Certificate of Insurance establishing compliance. The certificate(s) must name Hennepin County as the certificate holder, and as an additional insured for the commercial general liability and the automobile liability coverages required herein. The funding of deductibles and self-insured retentions (SIR) maintained by Contractor shall be the sole responsibility of Contractor. If the certificate form contains a certificate holder notification provision, the certificate shall state that the insurer will endeavor to mail to County thirty (30) day prior written notice in the event of termination of any described policies. If Contractor receives notice of termination from an insurer, Contractor shall email a copy of the notice to County within two business days.

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

If Contractor is unable to obtain a required insurance coverage, or if coverage is not renewed or is cancelled/terminated during the term of this Agreement, Contractor must immediately provide written notice to County as required by the provisions herein, Notices, of this Agreement. Contractor shall make immediate good faith efforts to obtain or replace the coverage in the open market. If such efforts are unsuccessful, Contractor shall immediately apply

to the Minnesota Joint Underwriting Association for the insurance coverage. Failure to maintain required insurance shall be considered an event of default pursuant to this Agreement.

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

If Contractor's subcontractor(s) independently carries insurance in accordance with the provisions herein, Contractor shall have a written agreement with its subcontractor(s) to pass-through all of the foregoing insurance obligations.

8.2. Indemnification/Claims

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

b. In any and all claims against County or any of its officers or employees by an employee of Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation of the amount or type of liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees.

c. Contractor's obligation to defend, indemnify and hold harmless, as set forth herein, includes but is not limited to any liability, claims, suits, actions or proceedings resulting directly or indirectly from actual or alleged infringement of any patent, patent application, copyright, trade secret, trademark, trademark application, or other proprietary, licensing or intellectual property rights ("Intellectual Property Rights") of another. If such a claim, suit, action or proceeding may endanger or disrupt County's quiet use and enjoyment of the Software, Contractor shall, at Contractor's sole expense, achieve the following results in the listed order of preference: (1) secure for County the right to continue using the Software; or (2) replace or modify the Software to make it non-infringing without degrading its performance or utility; or (3) refund all monies paid by County to Contractor hereunder within thirty (30) days of said election, for any Software functionality or for any services that County is unable to use.

d. In addition to the other "defend, indemnify and hold harmless" provisions in the Contract Documents, Contractor shall, without cost to County, defend, indemnify, and hold County, its commissioners, officers, and employees harmless against any and all claims, suits, liability, losses,

judgments, and other expenses arising out of or related to any claim that County's actual or alleged use or possession of Software, licenses, materials, reports, documents, data, or documentation obtained through the contract, violates or infringes upon Intellectual Property Rights or information. In no instance will Contractor settle any such claim, lawsuit, or proceeding without County's prior written approval. Contractor shall: (1) keep County informed of, and consult with County in connection with, the progress of any litigation or settlement; and (2) not settle any claim without County's written consent if such settlement arises from or is part of any criminal action, suit or proceeding or contains a stipulation, admission or acknowledgement of any liability or wrongdoing on the part of County.

8.3. Injury to Persons, Property Damage

Contractor shall be liable for damages to County property, or injury to County employees or any other person(s), prior to or subsequent to acceptance, delivery, installation or use of the Goods and/or services, provided that the injury or damage was caused by the fault or negligence of Contractor or caused by Contractor's Goods and/or services.

8.4. Performance and Payment Bonds

a. Contractor may be required to provide a Performance Bond and/or Payment Bond. The surety and any reinsurance company of the bond must be licensed to do business in the State of Minnesota. The bond form will be supplied by County and the execution of the bond will be subject to approval by the County Attorney. Executed bonds must be returned to County before Goods and/or services can be provided hereunder.

b. Should Contractor fail to provide the Goods and/or services hereunder, a claim may be made upon the Performance Bond. A Performance Bond, when so required, shall not preclude County from claiming damages on account of delay, price changes, loss of other contracts, loss of income, inability of County to fulfill other contracts, loss of other benefits of this contract, or other damages (including but not limited to cover damages), direct or consequential, arising out of breach of the contract or failure to perform the same by Contractor.

9. AFFIRMATIVE ACTION

9.1. Exemptions

Contractor may be granted an exemption from the requirements of this section for one of the following reasons:

a. Contract is for emergency or life safety-related purchases;

b. Contractor has no facilities and has no more than one employee operating within the geographic boundaries of Hennepin County;

c. Contractor had an average of forty (40) or fewer full-time/benefit-earning employees during the twelve (12) months preceding the submission of the bid or execution of the contract; or

d. Pursuant to Hennepin County Board policy, the County Administrator or their designee granted an exemption.

9.2. Requirements

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

9.3. Compliance; Remedies

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

10. NON-DISCRIMINATION

10.1. Policy

a. In accordance with County's policies against discrimination, Contractor agrees that it shall not exclude any person from full employment rights nor prohibit participation in or the benefits of, any program, service or activity on the grounds of any protected status or class. Including but not limited to race, color, creed, religion, national origin, sex gender expression, gender identify, age, disability, marital status, sexual orientation, or public assistance status. No person who is protected by applicable law against discrimination shall be subjected to discrimination.

b. County encourages Contractor to develop and implement a policy promoting diversity, equity, and inclusion in Contractor's workplace.

10.2. Statutory Requirements

If the contract is for materials, supplies or constructions, Contractor agrees to the following:

a. In the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;

b. No contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color.

c. A violation of this section is a misdemeanor; and

d. The contract may be terminated by County, and all money due, or to become due hereunder, may be forfeited for a second or any subsequent violation of the terms or conditions of the contract.

11. ADDITIONAL CONDITIONS

11.1. Representations and Warranties

a. Contractor represents and warrants that it has the requisite training, skill, and experience necessary to provide the services and is appropriately accredited and licensed by all applicable agencies.

b. Contractor represents and warrants that all Goods and/or services provided hereunder shall: (1) be fit for the purpose(s) for which they are intended; (2) be fit for merchantability; (3) be properly packaged, with proper technical specifications, instructions and warnings supplied; (4) comply with applicable health and safety standards; (5) conform to the descriptions, functionality, requirements, specifications, procedures and protocols set forth in the Contract Documents and (6) conform to ordinary standards of care. County's acceptance or inspection shall not alter or affect the obligations of Contractor or the rights of County.

c. Contractor represents and warrants that any Software or media used to distribute it are and shall be free of: (1) code that may disrupt, damage, or interfere with County's use of its computers, systems and/or telecommunications (e.g. malicious code, viruses, etc.); (2) devices that are capable of automatically or remotely stopping the Software from operating (e.g. passwords, fuses, time bombs, etc.); (3) other harmful code; and (4) any 'back doors' or 'trap doors' which allow for bypassing any security features.

d. Contractor represents and warrants that title to all Goods shall be free and clear of liens, claims, security interests or encumbrances, and that no Goods have an interest therein or an encumbrance thereon that is retained by the seller or any third-party.

e. Contractor represents and warrants that it is the lawful owner of the Software or, to the extent it is not the lawful owner, that it has all rights necessary to license the Software to County. When legally required, Contractor shall obtain the written consent of both the owner and licensor to reproduce, publish, and/or use any such material supplied to County hereunder.

f. Contractor represents and warrants that materials produced or used under the contract, including but not limited to Software, hardware, or any other item, shall not violate or in any way infringe any Intellectual Property Rights.

g. If Goods not in current manufacture are specified by County, Contractor warrants that such Goods shall, in addition to the express warranties set forth herein, be given the warranty which accompanied the Goods when it was in current manufacture.

11.2. Independent Contractor

Contractor shall select the means, method, and manner of performing the services. Nothing is intended nor should be construed as creating or establishing the relationship of a partnership or a joint venture between the parties or as constituting Contractor as the agent, representative, or employee of County for any purpose. Contractor is and shall remain an independent contractor for all services performed hereunder. Contractor shall secure at its own expense all personnel required in performing services hereunder. Contractor's personnel and/or Subcontractors engaged to perform any work or services

hereunder will have no contractual relationship with County and will not be considered employees of County. County shall not be responsible for any claims related to or on behalf of any of Contractor's personnel, including without limitation, claims that arise out of employment or alleged employment under the Minnesota Unemployment Insurance Law (Minnesota Statutes Chapter 268) or the Minnesota Workers' Compensation Act (Minnesota Statutes Chapter 176) or claims of discrimination arising out of state, local or federal law, against Contractor, its officers, agents, contractors, or employees. Such personnel or other persons shall neither accrue nor be entitled to any compensation, rights, or benefits of any kind from County, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, workers' compensation, unemployment compensation, disability, severance pay, and retirement benefits.

11.3. Duty to Notify

Contractor shall promptly notify County of any claim, action, cause of action or litigation brought against Contractor, its employees, officers, agents or Subcontractors, which arises out of the provision of Goods and/or services described in the Contract Documents. Contractor shall also notify County whenever Contractor has a reasonable basis for believing that Contractor and/or its employees, officers, agents or Subcontractors, and/or County, might become the subject of a claim, action, cause of action, administrative action, criminal arrest, criminal charge or litigation arising out of and/or related to the Goods and/or services described in the Contract Documents.

11.4. Data, Systems and Intellectual Property

a. Contractor, its officers, agents, owners, partners, employees, volunteers and Subcontractors shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13 (MGDPA) and all other applicable law, rules, regulations and orders relating to data or the privacy, confidentiality or security of data. For clarification and not limitation, County hereby notifies Contractor that the requirements of Minnesota Statutes section 13.05, subd. 11, apply to hereunder. Contractor shall promptly notify County if Contractor becomes aware of any potential claims, or facts giving rise to such claims, under the MGDPA or other data, data security, privacy or confidentiality laws, and shall also comply with the other requirements of this Section.

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

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

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

accepted industry standards and County policies, rules and directions, Contractor shall notify County of the inconsistency and follow County direction. Contractor shall immediately notify County of any known or suspected security breach or unauthorized access to County Data, then comply with all responsive directions provided by County. The foregoing shall not be construed as eliminating, limiting or otherwise modifying Contractor's indemnification obligations herein.

e. County may, in its sole discretion, grant Contractor limited access to County computer/data systems including but not limited to County computers, networks, databases, applications and/or environments ("County Systems") exclusively for the purposes of performing services hereunder. County Systems may be owned by County or may be licensed by County from a third party. If County grants access to County Systems, Contractor and all Contractor personnel with access to County Systems: (1) shall secure and safeguard all access and authentication information related to County Systems, including but not limited to usernames, passwords, and other applicable authentication information related to County Systems access, ("Authentication Credentials"); (2) shall not share or distribute Authentication Credentials with any individual; and (3) shall comply with County data practices and security policies, rules and directions when accessing and using County Systems. Compliance with such requirements is supplemental to Contractor's duty to comply with applicable law and regulations and Contractor's ordinary duty of care in such situations.

f. For clarification and not limitation of the foregoing, Contractor's access to County Systems shall be subject to the following: (1) Contractor shall notify all personnel with access to County Systems of the obligations imposed hereunder; (2) personnel performing on behalf of Contractor shall complete County approved data practices and security training as required by County; (3) if Contractor utilizes its own systems, software or equipment in the performance hereunder, the same shall meet County's technical operating and security system requirements, including but not limited to installing and/or maintaining County approved firewalls, proxies, filters and other monitors and controls; (4) Contractor shall immediately notify County of any known or suspected County System incidents or breaches, then comply with all responsive directions provided by County; and (5) if any Contractor personnel with access to County Systems no longer requires said access and/or is no longer performing services hereunder, Contractor shall immediately notify County and ensure that said individual no longer has access to County Systems, including but not limited to deleting, eliminating and destroying Authentication Credentials. County may terminate, deny or revoke access to County Systems at any time and without notice. Any notice required by the foregoing shall be provided to the Purchasing Director.

g. Contractor confirms, transfers, assigns, and conveys to County all right, title, and interest in all intellectual property which Contractor may create, conceive, develop, or originate for County, either individually or jointly with others, and which arises out of the performance of this Agreement ("Work"), including but not limited to copyrights, patents, trade secrets, trademarks, service marks, and rights in data or other technology ("Intellectual Property Rights"). As applicable, Work shall be considered "works made for hire" as defined in the U.S. Copyright Act. To the extent any Work is not determined to be works made for hire, Contractor grants and assigns to County, without reservation, all right, title, and interest in and to said Work. As applicable and to the extent said grant and assignment does not convey all right, title, and interest to County, Contractor grants to County an unlimited, irrevocable, perpetual, royalty-free right and license to use, convey, and distribute the Work.

Contractor shall, upon request of County, execute all papers and perform all other acts necessary to assist County to establish, protect, and preserve County's Intellectual Property Rights.

For clarification, each party shall retain ownership of intellectual property developed prior to or outside of this Agreement ("Pre-existing IP"). However, and as applicable, Contractor grants County a perpetual, irrevocable, royalty-free license to use Pre-existing IP for County's business purposes.

h. Upon expiration or termination of the contract:

1) At the discretion of County and as specified in writing by the Purchasing Director, Contractor shall deliver to the Purchasing Director all County Data so specified by County.

2) County shall have full ownership and control of all such County Data. If County permits Contractor to retain copies of County Data, Contractor shall not, without the prior written consent of County or unless required by law, use any of County Data for any purpose or in any manner whatsoever; shall not assign, license, loan, sell, copyright, patent and/or transfer any or all of such County Data; and shall not do anything which in the opinion of County would affect County's ownership and/or control of such County Data.

3) Except to the extent required by law or as agreed to by County, Contractor shall not retain any County Data that are confidential, protected, privileged, not public, nonpublic, or private, as those classifications are determined pursuant to applicable law. In addition, Contractor shall, upon County's request, certify destruction of any County Data so specified by County.

11.5. Records – Availability/Access

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

11.6. Successors, Subcontracting and Assignments

a. Contractor binds itself, its partners, successors, assigns and legal representatives to County for all covenants, agreements and obligations contained in the Contract Documents.

b. Contractor shall not assign, transfer or pledge the contract or provision of Goods and/or services hereunder, whether in whole or in part, nor assign any monies due or to become due to it without the prior written consent of County. A consent to assign shall be subject to such conditions and provisions as County may deem necessary, accomplished by execution of a form prepared by County and signed by Contractor, the assignee and County. Permission to assign, however, shall under no circumstances relieve Contractor of its liabilities and obligations hereunder.

c. Contractor shall not subcontract the contract and/or provision of Goods or services, whether in whole or in part, without the prior written consent of County. Consent to subcontract shall under no circumstances relieve Contractor of its liabilities and obligations hereunder. Further, Contractor shall be fully responsible for the acts, omissions, and failure of its Subcontractors in the provision

of Goods and/or services hereunder, and of person(s) directly or indirectly employed by Subcontractors. Contracts between Contractor and each Subcontractor shall require that the Subcontractor's provision of Goods and/or services be performed in accordance with the Contract Documents. County will assume no contractual relationship with Subcontractors. Contractor shall make contracts between Contractor and Subcontractors available upon request. For clarification and not limitation of the provisions herein, none of the following constitutes assent by County to a contract between Contractor and a Subcontractor, or a waiver or release by County of Contractor's full compliance with the requirements of this Section: (1) County's request or lack of request for contracts between Contractor and Subcontractors; (2) County's review, extent of review or lack of review of any such contracts; or (3) County's statements or actions or omissions regarding such contracts.

d. As required by Minnesota Statutes section 471.425, subd. 4a, Contractor shall pay any subcontractor within ten (10) days of Contractor's receipt of payment from County for undisputed services provided by the subcontractor, and Contractor shall comply with all other provisions of that statute.

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

11.7. Contract Documents

a. The Contract Documents form the contract. The Contract Documents represent the entire agreement between the parties and supersede all oral and written negotiations and agreements relating to the subject matter. If additional contract terms are required, it will be on a form required and prepared by County. Such written contract shall be signed by Contractor and returned, together with any information required by County, within the time specified by County in the Notice of Award.

b. Any alterations, variations or modifications of the provisions of the contract shall only be valid when they have been reduced to writing as an amendment to the contract signed by Contractor and the Purchasing Director or other duly authorized County official.

c. If there is any conflict between the terms of the Contract Documents and referenced or attached items, the terms of the Contract Documents shall prevail.

d. Except as expressly provided, the substantive legal terms contained in the Contract Documents, including but not limited to Indemnification/Claims, Contractor's Insurance, Contract Documents, Default and Termination, or Minnesota Laws Govern may not be altered, varied, modified or waived by any change order, implementation plan, scope of work, development specification or other development process or document.

e. If any provision of the contract is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

11.8. Survival of Provisions

Provisions that by their nature are intended to survive the term or termination of the contract do survive such term or termination.

11.9. Compliance and Non-Debarment Certification

a. Contractor shall comply with all applicable law, conditions of any funding sources, regulations, rules and ordinances currently in force or later enacted.

b. Contractor certifies that it is not prohibited from doing business with either the federal government or the State of Minnesota as a result of debarment or suspension proceedings. Contractor shall immediately notify County if Contractor is debarred or suspended during the term of this contract.

c. If the source or partial source of funds for payment of Goods and/or services provided hereunder is federal, state or other grant monies, County and Contractor are bound by and shall comply with applicable law, rules, regulations, applicable documentation, or other County directives relating to the source and utilization of such funds which may include reallocation of the funds at County's sole discretion, and, as applicable, the Federal Award Contract Provisions Addendum.

11.10. Recycling

In addition to other legal obligations, County encourages Contractor to have a single-sort recycling program or provide recycling service for at least three types of materials, which may include food waste. County also encourages Contractor to educate employees about the recycling program.

11.11. Notices

Any notice or demand which must be given or made by a party hereunder or any statute or ordinance shall be in writing and shall be sent via registered or certified mail. Notice to County shall be sent to the Purchasing Director. Notice to Contractor shall be sent to the registered address in the Supplier Portal or to the address stated in Contractor's Substitute form W-9 provided to County.

11.12. Conflict of Interest

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

11.13. Media Outreach

Contractor shall notify County, prior to publication, release or occurrence of any Outreach (as defined below). The parties shall coordinate to produce collaborative and mutually acceptable Outreach. For clarification and not limitation, all Outreach shall be approved by County, by and through its Public Relations Officer or their designee(s), prior to publication or release. As used herein, the term "Outreach" shall mean all media, social media, news releases, external facing communications, advertising, marketing,

promotions, client lists, civic/community events or opportunities and/or other forms of outreach created by, or on behalf of, Contractor (1) that reference or otherwise use the term "Hennepin County," or any derivative thereof in relation to this contract or the Goods and/or services purchased hereunder; or (2) that directly or indirectly relate to, reference, or concern the County of Hennepin, the contract, the provision of Goods and/or services hereunder, or County personnel, including but not limited to County employees and elected officials.

11.14. Minnesota Laws Govern

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

11.15. Cooperative Purchasing

County is a signature party to the Hennepin County Cooperative Purchasing Agreement and the Joint Powers Purchasing Agreement. These agreements allow other signatory organizations ("Cooperative Members") to purchase the same or substantially similar Goods and services based upon terms that are the same or substantially similar to those set forth in Contractor's contract with County, including but not limited to price/cost, if agreed upon pursuant to a separate agreement between Contractor and Cooperative Member. County shall have no obligation, liability or responsibility for any purchase made between a Cooperative Member and Contractor. Contractor may contact the County Purchasing Office for a list of current Cooperative Members.

11.16. Emergencies and Disasters

a. In the event of an emergency or disaster, Contractor may be required to either increase or decrease quantities of Goods and/or the provision of services normally provided to County. Such events may include, but are not limited to, a storm, high wind, earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above. In such events, the following shall apply:

    1) County shall notify Contractor that County is experiencing an emergency or disaster, and may request emergency and priority Goods and/or services from Contractor or a decrease in quantities of Goods and/or services.

    2) Upon such notice by County, Contractor shall make reasonable efforts to increase or decrease the Goods and/or services in the quantities requested and within the schedule specified by County.

    3) County shall be the customer of first priority for Contractor, except where preceded by State or Federal government mandates. Contractor shall make its best and priority efforts to provide the requested Goods and/or services in as complete and timely manner as possible.

    4) If Contractor is unable to meet County's request, Contractor shall promptly assist County to the extent practicable, to gain access to alternate Goods and/or services. This may include: (1) coordinating with other distributors or subsidiaries beyond those in the local region to fulfill order requests; (2) offering County substitutions provided Contractor obtains prior approval from County for such substitutions.

b. For Goods and/or services provided in an emergency or disaster, Contractor shall charge County the contract price. If no price has been determined, it shall charge County a price that is normally charged for such Goods and/or services (such as list prices for items in stock). However, in the event that Contractor: (1) incurs unavoidable additional costs to fulfill the County's request; and (2) Contractor would need to increase prices in order to obtain a fair rate of return; and (3) the contract price is not based on a cost-profit, mark-up, or discount off formula; then Contractor shall charge County a reasonable mark-up over Contractor's actual costs.

HENNEPIN COUNTY
MINNESOTA

Instructions to Bidders

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1 Purpose

The purpose of these instructions to bidders is to explain the process and rules related to bidding for this Hennepin County contract, including how the County determines who is awarded a contract, how to prepare and submit a bid, and reasons that a bid may be rejected.

Bids are generally submitted in the county's electronic bidding system, Supplier Portal. In order to submit a bid, you must first register with the Supplier Portal. **Register early to allow enough time to resolve technical issues which could cause you to miss out on this contract opportunity.** For more information on how to register, go to the Supplier Portal help page.

2 How a contract is formed

2.1 What is a bid?

Any person or entity submitting a response to the County's solicitation is defined as a Bidder. Bidder's submission of firm pricing, responses to questions, and all documents and comments in response to the solicitation is defined as a Bid. Submitting a Bid is not an invitation to make an offer but is a definite enforceable offer to contract in and of itself. Bids will remain firm offers for a period of ninety (90) days after the end date of the solicitation. Bidder may not withdraw its Bid during this firm bid period.

2.2 How does the County award a contract?

The County may accept a Bidder's Bid by providing a notice of award letter. The County's acceptance of a Bidder's Bid forms a valid, binding and enforceable contract between Bidder and the County.

If the firm bid period has expired and the County desires to accept a Bidder's Bid, Bidder may continue to hold its Bid as a firm offer or Bidder may withdraw its Bid, thereby withdrawing its offer, by providing the County with written notice.

2.3 What are the contract requirements?

The following documents form the contract and contain the binding contractual requirements between the County and a Bidder whose Bid has been accepted, unless the County specified otherwise in the Bid Documents:

- The Bid Documents, defined as all of the documents in the Supplier Portal event, which may include the following: these instructions to bidders, the sourcing event summary, the standard terms and conditions, the special terms and conditions and any specifications, drawings, exhibits, attachments, and addenda;
- Bidder's Bid;
- The County's notice of award letter sent to the Bidder; and

- Other County forms, as applicable.

2.4 If awarded the contract, what will happen if I refuse to honor my bid or perform?

If the awarded Bidder fails or refuses to honor its Bid or to fulfill the agreed upon contract obligations, the County may:

- Take action against Bidder for breach of contract;
- Elect to exercise its right to retain any bid security in favor of the County as liquidated damages, not as a penalty; and/or
- Exercise any other right or remedy available to County under the contract, law, statute, rule and/or equity.

2.5 What happens next if the awarded Bidder refuses to honor their bid or perform?

The County may then:

- Award a contract to a different Bidder;
- Reject all Bids;
- Resolicit the goods and/or services;
- Otherwise acquire the goods or perform the services; and/or
- Take other actions as the County deems appropriate.

3 How to review the Bid Documents

3.1 Where do I find the Bid Documents?

The County's Bid Documents are available for public review in the Hennepin County Supplier Portal by selecting the "Contracting opportunities" tile, clicking on the event name, then clicking on "View Documents".

3.2 What if I see errors or have questions after reading the Bid Documents?

Bidders must study the Bid Documents and examine the site and local conditions if applicable. Bidders must promptly notify the County Purchasing representative of any errors, omissions, ambiguities or inconsistencies. Bidders must email the County Purchasing representative no later than seven (7) calendar days before the end date and time of the solicitation with any questions. Bidder must not take advantage

of errors, omissions, ambiguities or inconsistencies in the Bid Documents.

3.3 Can the Bid Documents be changed?

The County may make changes or clarifications to the Bid Documents by addenda. Addenda are binding on all Bidders. The County will post any addenda in the Supplier Portal for public review. At the County's discretion, the County may also email addenda to all potential Bidders who are specifically known by the County Purchasing representative to be interested in the solicitation, have accepted the solicitation, or have been invited to a solicitation. The County will not issue addenda within four (4) calendar days prior to bid opening, except an addendum cancelling the solicitation or extending the end date and time of the solicitation.

3.4 What do I need to do if there is an addendum?

Bidder must acknowledge receipt of all addenda issued. Notwithstanding anything to the contrary, if Bidder has not acknowledged addenda, the County Purchasing Director may exercise any of the following as determined by the County to be in the County's best interest:

- Allow Bidder to acknowledge addenda after Bids have been opened with no change to the Bid;
- Determine that addenda do not materially affect the Bid; or
- Reject Bidder's Bid as not responsive.

3.5 Can the solicitation be cancelled?

The County reserves the right to cancel the solicitation.

4 Quality of your goods and/or services

4.1 What are the quality standards?

Bidder should be aware that by submitting a Bid, Bidder represents and warrants that their goods and/or services, as applicable:

- Comply with the Bid Documents;
- Are fit for the purpose(s) for which they are intended;
- Are fit for merchantability;
- Are free from faults and defects;
- Are brand new and are not refurbished or used;

- Comply with applicable health and safety standards;
- Conform to ordinary standards of care;
- Reflect Bidder's assessment of the local conditions under which the contract work will be performed; and
- Are compatible with the equipment and/or system in the environment in which it will be utilized, as indicated in the Bid Documents.

4.2 Can I submit an equal product instead of the brand name specified?

A brand name is the identification of products by manufacturer, make, model name and/or model number. If the County specified a brand name product in the Bid Documents, the County will, to promote free and full competition, also consider proposed equal products, unless otherwise specified in the Bid Documents. Bidders are encouraged to propose equal products when permitted. Equal products must comply with the specifications in the Bid Documents and must be equal in quality and characteristics to the stated brand name product. Whenever an item is identified by using a brand name, the intent is:

- To be descriptive, not restrictive; and
- To indicate the quality and characteristics desired.

See Section 5.1 for information on how to bid an equal product.

5 How to bid

5.1 How do I prepare my bid?

- Bidders registered with the Supplier Portal can bid on a solicitation by clicking on "Bid on Event".
- Bidders must complete all general questions, all line item questions identified as "Respond to Bid Questions", if any, and input unit prices marked as required by the solicitation.
- The quantities specified for each item in the solicitation are estimated quantities for the contract term, unless otherwise specified in the Bid Documents. The County reserves the right to increase or decrease the actual quantity ordered with no change in the unit price.
- Bidders must not include federal, state, or local taxes in its Bids. Bidders must factor in all costs to provide the goods and/or complete the services in its bid prices, including but not limited to, delivery/freight to the destination designated in the Bid Documents, handling, installation, assembly, insurance, licenses, and royalties. If Bidder is awarded a contract, invoices containing any charge not specified in its Bid will be rejected.

- If Bidder is bidding an equal product, Bidder must state so on the Bid and clearly identify the manufacturer and brand name of the product proposed. Bidder must include descriptive material in its Bid in order for the County to determine exactly what Bidder proposes to furnish and whether the product proposed complies with the Bid Documents. It is Bidder's responsibility to ensure that the County has sufficient information to make that determination. Bidder may be required to furnish a sample of the proposed equal product. The County will determine equality at its sole discretion. The County reserves the right to reject a Bid if Bidder fails to bid the quality specified or comply with this Section.

- If Bidder is proposing to modify a product to make it comply with the Bid Documents, Bidder must attach to its Bid a clear, descriptive statement of the proposed modifications and any other supporting documentation to show the proposed modifications. Product modifications proposed after the end date of the solicitation will not be considered. The County reserves the right to reject a Bid for a product that has been modified.

- If any line item in a bid solicitation is based on a percent mark-up or percent discount from a manufacturer's price list, Bidder's retail price, or other price schedules, Bidder must provide the specified price schedule as requested by the County.

5.2 Do I need to include bid security with my Bid?

Bid security is a deposit submitted with a Bid that may be forfeited if the awarded Bidder fails or refuses to honor its Bid. If required by the Bid Documents, Bids must be accompanied by a bid security in the form and amount specified in the Bid Documents and made payable to the Hennepin County Treasurer. If a check is required, it must be a certified check. If a bid bond is required, it must be issued by a corporate surety authorized to do business in the State of Minnesota.

The County has the right to retain the bid security of Bidders to whom an award is being considered until either:

- The contract has been awarded and payment and/or performance bonds, if required, have been furnished;

- The specified time has elapsed so that Bids may be withdrawn; or

- All Bids have been rejected.

5.3 How do I submit my Bid?

Bidder is encouraged to submit its Bid via the Supplier Portal, unless the County specified otherwise. For bids submitted through the Supplier Portal:

- Because the Bid is an offer to enter a contract that, upon acceptance by the County, will form a valid contract, the Bid must be signed by the person or persons legally authorized to bind Bidder to a contract. The Bid is considered signed when Bidder clicks on "Sign Submission" in the Supplier Portal.

- The Bid is successfully submitted when "Sign Submission" is clicked no later than the end date and time of the solicitation. The official time is based on the time clock in the Supplier Portal. When the Bid is successfully submitted, Bidder will receive a successful bid confirmation email from the Supplier Portal, and the status is "Posted" in the Supplier Portal.
- Bidder uses the Supplier Portal at its own risk per the Hennepin County Supplier Portal User Agreement. Bidders are solely responsible for ensuring that any attached documents are not corrupted, are in an accessible format and are virus free.

The County will not accept bids in any other format unless, prior to submission deadline, Bidder:

- Demonstrates technical issues submitting their bid in Supplier Portal
- Submits a complete Bid by email to contracts@hennepin.us or Supplierportalsupport@hennepin.us; and
- Submits a printed and signed copy of the "Event Details" or "Sourcing Event Summary".

Bids not complying with the above will be deemed non-responsive and rejected.

5.4 Can I edit or withdraw/cancel my Bid?

Bidder may save, edit, submit, resubmit and/or withdraw/cancel its Bid at any point before the end date and time of the solicitation.

6 How the County determines who is awarded a contract

6.1 How do I find out the bid results?

Bids which have been successfully submitted by Bidder and received by the County before the end date and time of the solicitation will be opened publicly, at which time the name of Bidder, total Bid price, and any discounts are read aloud. The County will post an unaudited tabulation of the Bids on the Supplier Portal or will make it available publicly in another manner.

All other data in Bidder's Bid are nonpublic until the award process has been completed. After the award process is complete, all Bids are public, except data or information clearly asserted by Bidder to be trade secret data and determined by the County to be private/nonpublic data in accordance with applicable law. Requests to obtain Bids can be made through Hennepin County's online data request portal.

6.2 On what basis does the County make an award?

- It is the intent of the County to award a contract to the lowest priced responsible Bidder that submitted a responsive Bid.

- The County may make multiple awards if it is in the County's best interest.
- When there are multiple line items in a solicitation, the County reserves the right to award the contract in whole or in part, by item or group of items where such action serves the best interest of the County.
- If two (2) or more responsible Bidders submit responsive Bids with a low-tied Bid price, the County will award to the small business enterprise certified by the Central Certification (CERT) Program. If the low-tied Bidders are both SBEs or there is no SBE, the County Purchasing Director will resolve low-tied Bids in a manner which the County Purchasing Director deems unbiased (e.g. coin toss or drawing out of a hat).

6.3 How is the bid price calculated?

The total Bid price includes any price discounts, including early payment discounts when such discounts are requested by the County in the Bid Documents. If there is a discrepancy between unit prices and any extended prices, the unit prices will prevail. If there is a discrepancy between a percent discount or mark-up and that percent is expressed in dollars, the stated percent discount or mark-up will prevail over the expressed dollars.

Bid prices must remain firm throughout the contract term and any contract extension period unless the Bid Documents allow a price adjustment according to an escalation clause. Bidder's percent mark-up or percent discount must remain firm throughout the contract term and any contract extension period. If the percent mark-up or percent discount is based on a price schedule, that price schedule will become part of the contract and must not change unless otherwise specified in the Bid Documents.

6.4 Will I need to send additional information to the County?

The County reserves the right to request additional information such as references or product samples. Bidder must comply with any request to provide the County additional information by the deadline established by the County. Failure to submit requested additional information will be just cause for eliminating Bidder from further consideration for award. All samples must be provided free of charge. Samples will be returned or picked-up at Bidder's expense with no liability to the County for any loss or damage. If Bidder fails to pick-up or arrange for the return of the samples within thirty (30) calendar days of the County's request to return the sample, they will be considered the County's property to use or dispose.

6.5 For what reasons can a Bid be rejected?

The County reserves the right to reject all bids. The County reserves the right to reject a Bid for the following reasons, in its sole discretion:

- The County deemed the bid non-responsive, for reasons included, but not limited to:
    - The Bid was incomplete;
    - Bidder took exceptions to the Bid Documents;
    - The Bid did not comply with the specifications;

- Bidder did not acknowledge addenda;
- The Bid included written communication to negotiate bid price(s) or terms and conditions;
- Bidder's bid price(s) was excessively unbalanced either above or below reasonable bid price(s) as determined by the County;
- Bidder did not comply with the County's request for additional information according to Section 6.4;
- The Bid was not prepared in the Supplier Portal or on the sourcing event summary bid form provided by the County and therefore did not include a statement of noncollusion; or
- The Bid included any other irregularity.

- The County deemed Bidder not responsible and unlikely to meet the requirements of the contract. The County's assessment may include, but is not limited to:
  - Experience of the Bidder;
  - Capability to successfully meet the requirements of the contract;
  - Financial ability of the Bidder to successfully meet the requirements of the contract;
  - Bidder's performance on previous County contracts; or
  - Bidder's performance with other governmental entities or businesses.

- Bidder colluded with competitors to fix prices, rig bids, or engage in other anticompetitive activity. Collusion is prohibited. Upon evidence that collusion exists among Bidders, none of the Bids of participants in such collusion will be considered and all involved Bids will be rejected.

- Bidder, its subcontractors, or its affiliates are barred from doing business with either the Federal or State of Minnesota Governments as a result of debarment proceedings. Persons or entities are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other or a third party controls or has the power to control both. The ways to determine control include but are not limited to:
  - Interlocking management or ownership,
  - Identity of interests among family members,
  - Shared facilities and equipment,
  - Common use of employees; or
  - A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

The County reserves the right to waive any non-material irregularities in any Bids received.

7 Federal Notices

7.1 Notices for contracts supported in whole or in part by financial assistance from the federal government.

In circumstances where awards under this solicitation will be supported in whole or in part by financial assistance from the federal government, Hennepin County is required to inform you of the following:

- Non-Discrimination on the Basis of Faith
    - Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at, and subject to the protections and requirements of, this part and any applicable constitutional and statutory requirements, including 42 U.S.C. 2000bb et seq. Neither Hennepin County nor any federal funding agency will discriminate for or against an organization on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization.
    - A faith-based organization that participates in this program will retain its independence from the Government and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law. Religious accommodations may also be sought under many of these religious freedom and conscience protection laws.
    - A faith-based organization may not use direct Federal financial assistance from any federal funding agency and/or Hennepin County to support or engage in any explicitly religious activities except when consistent with the Establishment Clause of the First Amendment and any other applicable requirements. An organization receiving Federal financial assistance also may not, in providing services funded by USDA, or in providing services funded by any Federal agency and/or Hennepin County, or in their outreach activities related to such services, discriminate against a program beneficiary on the basis of religious, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious service.
- Non-Discrimination of Disadvantaged Businesses
    - Hennepin County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.