



REQUEST FOR PROPOSAL (RFP) NO. 19-010

MWCOG Regional Forum Venue

Submission Due Date: Tuesday, February 26, 2019

Time: 3:00 PM EST

Questions - Email: purchasing@mwkog.org

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I. INTRODUCTION

A. The Metropolitan Washington Council of Governments (MWCOG) is the regional organization of 24 of the Washington area's major local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives. MWCOG provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management plans, environmental monitoring, tracking economic development and population growth and their implications on the region, coordinating public safety programs, and promoting adequate child care and housing for the region. MWCOG is supported by financial contributions from its participating local governments, federal and state government grants and contracts and through donations from foundations and the private sector. More information on MWCOG may be found at www.mwcog.org.

B. Definitions used in this RFP include:

Proposer	Entity submitting a Proposal in response to this RFP.
Proposal	Entity's response to meeting the specifications and requirements of the procurement.
Contractor	The term used throughout this document to describe the successful Proposer awarded the Contract based on this solicitation.
Contract	Agreement executed between MWCOG and the Contractor as a result of the procurement.

C. In this RFP, MWCOG is seeking Proposals from venues to host a regional forum for approximately 500 attendees on April 23, 2019 (hereinafter referred to as "**MWCOG Regional Forum Venue**").

D. MWCOG will identify the most qualified, responsible and responsive Proposer based on scoring criteria including price, qualifications and references (See Section IV).

E. MWCOG reserves the right to accept or reject any and all Proposal(s) or portions thereof, to waive any informalities in the solicitation, and to recommend awards that appear to be in the best interest of MWCOG. MWCOG reserves the right to reject any proposals determined to be inadequate or unacceptable.

F. Qualified Proposers responding to this RFP must do so no later than **3:00 PM EST on Tuesday, February 26, 2019.**

G. Proposers are requested not to contact MWCOG directly. Proposers are requested to only contact MWCOG *in writing via email* at purchasing@mwcog.org (cc: jhardy@mwcog.org) with questions regarding this solicitation.

II. PROPOSER QUALIFICATIONS

Proposers must meet the following qualifications for consideration of award pursuant to this RFP:

- A. The Proposer's venue must be located within a five (5) mile radius of MWCOG's offices, located at 777 North Capitol Street NE, Washington, DC 20002;
- B. Proposer's venue must have at least one (1) Metrorail station within four (4) blocks walking distance from venue; and
- C. Proposer must possess a business license issued by the District of Columbia Department of Consumer and Regulatory Affairs (DCRA).

III. SPECIFICATIONS

- A. Proposals responding to this RFP shall demonstrate how the Proposer will execute the requirements of the **MWCOG Regional Forum Venue** as follows:
 - 1. On-site self-parking options (parking garages on the same street block and valet options may also be considered; preference will be given to discounted options);
 - 2. Designated area prepared for attendee registration;
 - 3. Office space to accommodate at least 10 people, to serve as a meeting/waiting area for forum event staff, guest government officials, and guest speakers;
 - 4. Room and seating capacity for at least 500 people in a classroom-style setting, with all tables facing the same direction;
 - 5. Audio-visual equipment, to include, at a minimum: projectors, projector screens, microphones, sound system, and internet access;
 - 6. Catering options for a light breakfast, lunch, and morning and afternoon coffee;
 - 7. A separate, designated area/room for lunch, including round tables for seating at least 500 people; and
 - 8. A designated area for morning/afternoon coffee breaks.

B. ALTERNATIVE DATES

Preference will be given to the Proposer that can provide availability for the **MWCOG Regional Forum Venue** on Tuesday, April 23, 2019 between the hours of 8:00 AM and 4:00 PM EST. In the event the Proposer's venue is not available, alternative dates within two (2) weeks of the desired date, except for Mondays and Fridays, may also be considered.

IV. PROPOSAL SCORING

MWCOG will award the Contract to the Proposer who has the highest score, based on the Proposer's ability to demonstrate meeting the following evaluation criteria:

Criteria	Weight
<i>Venue Capacity</i> : Evaluation of Proposer's room capacity, audio-visual equipment available, and date availability, at a minimum.	20
<i>Venue Accessibility</i> : Evaluation of Proposer's proximity to MWCOG, Metrorail lines, and parking options.	20
<i>Venue Terms and Conditions</i> : Evaluation of Proposer's sample contract and, at a minimum, policies regarding payment schedules, cancellation terms, and changes to the number of attendees.	15
<i>Catering</i> : Evaluation of Proposer's menu options for breakfast, lunch, and afternoon snack.	15
Price	15
Disadvantaged Business Enterprise (DBE) Plan	15
TOTAL	100

V. PROPOSAL INSTRUCTIONS

- A. Proposals must follow the format specified below and **shall be no more than 25 pages**. Proposals not following the prescribed format may be deemed non-responsive and subject to rejection (See also Proposal Checklist in Section VIII).
1. **Cover Letter** (no more than three (3) pages)
The cover letter shall include an executive summary of the Proposer, highlighting the qualifications and experience of the Proposer, its key personnel, and any proposed subcontractors.
 2. **Technical Approach** (no more than 12 pages)
The Proposers approach to meeting the requirements of this RFP shall be explained in this section of the Proposal. No pricing information should be included in the Technical Approach submission. Any discounts must be represented as percentages (%).
 3. **Price Proposal** (no more than three (3) pages)
Proposers are to complete and return the Price Proposal Form found in Section VIII. Price proposals in response to this RFP are not-to-exceed (NTE) **\$60,000**.
 4. **Supplemental Information** (no page limit)
 - a. Proposer must provide a sample contract and sample catering menu for review in this section of the Proposal. The sample contract should not contain any proposed pricing. The following costs, and any other additional costs proposed in this section, must be presented as percentages (%), as applicable:
 - i. Minimum spending amounts;
 - ii. Changes in the number of attendees; and
 - iii. Cancellation of the regional forum event.
 - b. Proposers are also encouraged to provide photographs and/or floor plans of the venue in this section for consideration.
 5. **Proposer Qualification Form** (Attachment A)
Proposers shall self-certify to meeting the qualifications required by this RFP.
 6. **Contact Information Form** (Attachment B)
Proposer shall provide the names and contact information for its proposed key

personnel assigned to this event.

7. **Proposer Experiences/References** (Attachment C)
Proposer shall submit references from three (3) other clients who are being or have been provided similar products, services and/or scope of work by the Proposer.
8. **Proof of Insurance** (no more than two (2) pages)
Proposer shall submit a copy of its certificate of insurance for consideration.

- B. Proposers must submit one (1) original and five (5) hard copies of the Proposal submission. All Proposals are to be submitted no later than **3:00 PM EST, Tuesday, February 26, 2019** to the following address:

Jayne Hardy
Contracts and Purchasing
Metropolitan Washington Council of Governments
777 North Capitol Street NE, Suite 300
Washington, DC 20002

- C. All Proposals must be signed by Proposer's officials. Proposals received after the time and date indicated will be not be accepted.

D. CLARIFICATIONS VIA ADDENDA

1. Questions regarding discrepancies, omissions, or specifications may be directed **in writing only** no later than **5:00 PM EST on Friday, February 15, 2019**, to Jayme Hardy, at purchasing@mwkog.org (cc: jhardy@mwkog.org).
2. Exceptions taken do not obligate MWCOG to change the specifications. If no changes are needed, then no addendum will be issued.
3. MWCOG will notify potential Proposers in writing, by addendum posted online, at least five (5) business days before the Proposal submission deadline, of any updated interpretations, specifications, or instructions.
4. It is the responsibility of the Proposer to check and see if addenda have been issued by MWCOG, on its website, at www.mwkog.org/purchasing-and-Proposals/cog-Proposals-and-RFPs/
5. Proposer should indicate that they have reviewed the latest addenda by acknowledging so on the Price Proposal Form.

VI. **DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

1. DBE participation shall be a component of the Proposer selection process for this RFP. COG has established a DBE goal of 15% for this project. MWCOG's DBE Policy may be viewed on its website www.mwkog.org/purchasing-and-bids/dbe-policy/.
2. Proposer shall submit a DBE Participation Plan with their Proposals to meet this goal. The Plan shall identify any DBE (defined in 49 CFR Part 26) that shall be participating in the project. The Plan shall include the name and address of the firm, a copy of the firm's current DBE Certification from any federal, state or local government agency

that certifies DBE ownership (please note only DBE certifications will be accepted by MWCOG for this purpose).

3. MWCOG, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000 d – 42 and Title 49, Code of Federal Regulations, hereby notifies all Proposers that it will affirmatively ensure that any Awards made pursuant to this advertisement will afford DBEs full opportunity to submit Proposals in response to this RFP, and will not discriminate on the grounds of race, color, sex, or national origin in consideration for an Award.
4. Federal Law – CFR Part 26.37 (Monitoring Performance) requires MWCOG to include a monitoring and enforcement mechanism to ensure that work committed to DBEs at time of the Award is performed by DBEs.
5. A total of 15 possible points (out of a maximum of 100 points) may be awarded for DBE participation, as measured in dollars, either as the “Contractor” or “Subcontractor”. In the event of a tie score between two (2) or more Proposals, the Proposal with the largest percentage of DBE participation, as measured in dollars, will be awarded. DBE points are to be awarded as follows:

PARTICIPATION POINTS	
10% to 14%	3
15% to 19%	6
20% to 24%	9
25% to 34%	12
35% or more	15

VII. GENERAL CONDITIONS

MWCOG reserves the right to cancel this RFP, or reject, in whole or in part, any or all Proposals within **60 days** of the Proposal opening, if MWCOG determines that cancellation or rejection serves the best interests of MWCOG. If additional time is needed, all Proposers will be notified.

{Continued on the next page.}

VIII. PRICE PROPOSAL FORM

Proposer _____

DATE: _____

PLEASE PROVIDE A NOT-TO-EXCEED (NTE) COSTS FOR EACH OF THE FOLLOWING **MWCOG REGIONAL FORUM VENUE** COMPONENTS REQUIRED BY THIS RFP. Please feel free to add attachments to this price proposal for consideration. Extra space has been provided in each section below to add itemized costs.

MWCOG Regional Forum Venue Component			NTE Cost
PARKING COSTS			
On-site Self-Parking			
ROOM RENTAL			
Room Rental			
AUDIO-VISUAL EQUIPMENT			
Projector	Each: \$ _____	Quantity: _____	
Projector Screens	Each: \$ _____	Quantity: _____	
Microphones	Each: \$ _____	Quantity: _____	
Sound System			
Internet Access			
CATERING			
Light Breakfast			
Morning Coffee			
Lunch			
Afternoon Coffee			
TOTAL NTE COST			

Addendums Acknowledged (if applicable) -

Addendum #1 YES _____ NO _____ N/A _____

Addendum #2 YES _____ NO _____ N/A _____

Others _____

I have read, understood, and agreed to the terms and conditions of all contents of this RFP. The undersigned agrees to furnish the commodity or service stipulated in this RFP as stated above.

NAME: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

SIGNATURE: _____

TITLE: _____

PROPOSAL CHECKLIST

<u>Item</u>	<u>Attached</u>	<u>YES</u>	<u>NO</u>
PROPOSAL CHECKLIST		_____	
Section VIII PRICE PROPOSAL FORM		_____	
Attachment A PROPOSER QUALIFICATIONS FORM		_____	_____
Attachment B CONTACT INFORMATION FORM		_____	_____
Attachment C PROPOSER'S EXPERIENCE/REFERENCES		_____	_____
Certificate of Insurance (see Terms and Conditions)		_____	_____
Sample Contract		_____	
Acknowledgements		YES	Exceptions
Attachment D Terms and Conditions		_____	_____

If a Proposer is unable to accept all or parts Attachments D, Proposer must indicate that it has exceptions and provide an attachment indicating the exceptions. Exceptions may cause the Proposal to be disqualified. If no exceptions are noted, then checking "yes" indicates acceptance of the MWCOG Terms and Conditions as written.

Attachment A

PROPOSER QUALIFICATION FORM

1. NAME OF PROPOSER: _____
2. PERMANENT MAILING ADDRESS: _____
3. YEAR & STATE INCORPORATED: _____
4. DUN AND BRADSTREET D-U-N-S #: _____
5. DO YOU HAVE A BUSINESS LICENSE ISSUED BY DCRA? YES NO
6. IS YOUR VENUE LOCATED WITHIN FIVE (5) MILES OF 777 NORTH CAPITOL STREET NE,
WASHINGTON, DC 20002? YES NO
ADDRESS: _____ MILES: _____
7. IS THERE A METRORAIL STATION WITHIN FOUR (4) WALKING BLOCKS OF YOUR VENUE?
 YES NO METRORAIL STATION: _____
8. GENERAL CHARACTER OF WORK PERFORMED BY YOUR COMPANY:

9. HAVE YOU EVER DEFAULTED ON A CONTRACT? YES NO
IF YES, WHY? _____

10. NAME OF BANKS WITH WHICH YOU DO BUSINESS:

11. DO YOU GRANT THE AWARDING AUTHORITY PERMISSION TO CONTACT THIS (THESE)
MANUFACTURES AND LENDING INSTITUTION(S)? YES NO

By signing this form, you acknowledge compliance with all terms and conditions of this Proposal.

Name: _____ Date: _____

Title: _____ Company: _____

Attachment B

CONTACT INFORMATION FORM

Proposer Company Name _____

Contact for Proposal

Name _____

Title _____

Phone number _____

Email address _____

Sales Representative Contact

Name _____

Title _____

Phone number _____

Email address _____

Area covered: _____ (“all”, or list)

Service/Support Representative Contact

Name _____

Title _____

Phone number _____

Email address _____

Area covered: _____ (“all”, or list)

Use additional sheet for more sales/support representatives

Attachment C

PROPOSER'S EXPERIENCE/REFERENCES

Name of Proposer _____

REFERENCES are to be provided from three (3) other clients who are being or have been provided by the Proposer similar products, services and scope of work.

Complete contact information for each reference, including name, telephone number, mailing address and E-mail address, must be included with the Proposal.

A Proposer, which lacks sufficient specific experience, may be deemed non-responsible, and may not be considered for award of subsequent contract(s).

1) Company Name _____

Contact Name _____

Mail Address _____

Telephone Number _____ Email Address _____

2) Company Name _____

Contact Name _____

Mail Address _____

Telephone Number _____ Email Address _____

3) Company Name _____

Contact Name _____

Mail Address _____

Telephone Number _____ Email Address _____

Attachment D**MWCOG TERMS AND CONDITIONS**

This document sets out provisions generally applicable to Metropolitan Washington Council of Governments (“MWCOG”) Participating Agencies contracts. The provisions herein do not constitute a complete agreement, and must be appended to a document, executed by all parties, which identifies the specific work to be performed, compensation, term, incorporated attachments, and special conditions, if any. This document and the Contract are intended to be complementary and shall be construed accordingly. However, should there be a direct contradiction between the terms and conditions contained herein and the Contract, then the Contract shall govern and control those contradictory terms and conditions. As used herein, the term “MWCOG” includes MWCOG, its various members, agencies, employees or agents as may be appropriate. The term “Contract” shall include a document entitled “agreement” or any other title on a document that is denoting a contract.

Amendment. This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract. No amendment to this Contract shall be binding unless in writing and signed by the parties.

Bankruptcy. Upon filing for any bankruptcy proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor must notify MWCOG Participating Agencies immediately. Upon learning of the actions herein identified, MWCOG reserves the right at its sole discretion either to cancel the Contract or to affirm the Contract and hold the Contractor responsible for damages. The exercise of this right is in addition to any other rights MWCOG may have as provided in this agreement or by law.

Compliance with Law. The Contractor hereby represents and warrants that:

- A. It has the power and authority to enter into and perform the Contract, that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms;
- B. Its performance under the Contract shall be in a good and workmanlike manner and in accordance with all applicable professional standards;
- C. It is qualified to do business in the jurisdictions covered by the Contract and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- D. It is not in arrears in the payment of any obligations due and owing to any agency involved in this agreement, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- E. It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- F. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

Contingent Fee Prohibition. The Contractor, architect or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, architect or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or agent, any commission, percentage, brokerage or contingent fee or other consideration contingent on the making of this Contract.

Counterparts. This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.

Force Majeure. Neither MWCOG and/or its members nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, declaration of emergency, or war where such cause was beyond, respectively, MWCOG’s and/or its members or Contractor’s reasonable control. MWCOG and/or its members and Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this

Contract.

Governing Law. This Contract shall be governed by and construed in accordance with the laws of the Participating Agency's jurisdiction without regard to principles of conflicts of law.

Indemnification. The Contractor shall protect, hold free and harmless, defend and indemnify MWCOG and its members including their officers, agents and employees from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments (including attorney's fees) resulting from injury to, or death of, any person or damage to property of any kind, which injury, death or damage arises out of, or is in any way connected with the performance of the work or failure to perform its obligations under this Contract. This obligation of indemnification shall apply to any acts or omissions, negligent conduct, whether active or passive, including acts or omissions of Contractor's agents or employees; except that it shall not be applicable to injury, death or damage to the property arising from the sole negligence of MWCOG and/or members, their officers, agents and employees.

Independent Contractor.

- A. Contractor shall perform the work required by this Contract as an "Independent Contractor." Although MWCOG and/or members reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, MWCOG and/or members cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by MWCOG and/or members relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this Contract. Contractor is responsible for determining the appropriate means and manner of performing the work.
- B. Contractor represents and warrants that Contractor is not an employee of MWCOG and/or members, is not currently employed by the Federal Government, and is not an officer, employee or agent of MWCOG and/or members.
- C. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.
- D. Contractor agrees to immediately provide MWCOG and/or members notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without MWCOG's written consent, any obligation of MWCOG to indemnify Contractor for any actions under this Contract.

Insurance Requirements.

- A. Contractor shall obtain, and at all times keep in effect, Commercial General Liability Insurance in the amounts listed below for its activities and operations. The insurance shall include coverage for personal injury, discrimination and civil rights violation claims. All such insurance shall name MWCOG, individual members, their employees, and agents as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with MWCOG and/or members prior to the time any services are rendered. Contractor shall maintain coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate and \$500,000 for property damage. Coverage shall be written on an occurrence form.
- B. Contractor shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract with MWCOG and/or members to protect Contractor against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the carrying out of this Contract. All such insurance shall name MWCOG and/or individual members, their employees, and agents as ADDITIONAL INSURED.

- C. Contractor shall, upon request, provide MWCOG and/or members with certification of Workers' Compensation Insurance, with employer's liability in the minimum amount required the governing jurisdiction's law in effect for each year of this Contract.
- D. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to MWCOG and members involved in the contract shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
- E. When insurance coverage is renewed, Contractor shall provide new certificates of insurance prior to expiration of current policies to all contracting agencies.

Nondiscrimination. A Contractor, who is the recipient of MWCOG and/or member funds, or who proposes to perform any work or furnish any goods under this Contract, shall not discriminate against any worker, employee or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability. Contractor further agrees that this provision will be incorporated in all sub-contracts entered into in connection with this Contract.

Ownership of Documents and Materials.

- A. The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanicals, artwork, and computations prepared by or for the Contractor under the terms of this Contract shall at any time during the performance of the services be made available to MWCOG and/or members upon request and shall become and remain the exclusive property of MWCOG and/or members upon termination or completion of the services. These jurisdictions shall have the right to use the same without restriction or limitation and without compensation to the Contractor other than that provided in this Contract. MWCOG and/or members shall be the owner for the purposes of copyright, patent or trademark registration.
- B. If the Contractor obtains or uses for purposes of this Contract, or subcontracts for, any design, device, material, or process covered by letters of patent for copyright, it shall provide an assignment to MWCOG and/or members of ownership for purposes of copyright, patent or trademark and of all right to possess and to use such design, device, material or process and a legally sufficient agreement with the patentee or owner, and a copy of such agreement shall be filed with MWCOG and/or members.
- C. The Contractor shall indemnify and save harmless MWCOG and/or members from any and all claims for infringement by reason of the use of any such patented design, device, materials, or process, or any trademark or copyright, and shall indemnify, protect and save harmless MWCOG and/or members, their officers, agents, and employees with respect to any claim. Action, costs or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment or services covered by this Contract.

Payments. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after MWCOG's and/or members receipt of a proper invoice from the Contractor.

Records. Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that the MWCOG and/or members and their duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this Contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three (3) years, except as required longer by law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later. All subcontracts shall also comply with these provisions.

Remedies.

- A. Corrections of errors, defect and omissions. Contractor agrees to perform the work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to MWCOG and/or members. The acceptance of the work set forth herein by MWCOG and/or members shall not relieve the Contractor of the responsibility of subsequent corrections of such errors.
- B. Set Off. MWCOG and/or members may deduct from and set-off against any amounts due and payable to the Contractor any back-charges, penalties, or damages sustained by MWCOG and/or members, their agents, employees of recipients of its services, by virtue of any breach of this Contract by the Contractor or by virtue of the failure or refusal of the Contractor to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional costs resulting from a failure to satisfactorily perform the services.
- C. Cumulative. All rights and remedies of MWCOG/ members and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the MWCOG and/or members by law.

Responsibility of Contractor.

- A. The Contractor shall perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services hereunder.
- B. Notwithstanding any review, approval, acceptance or payment for the services by MWCOG, the Contractor shall be responsible for the professional and technical accuracy of its work, design, drawings, specifications and other materials furnished by the Contractor under this Contract.
- C. If the Contractor fails to perform the services, or any part of the services, in conformance with the standard set forth in subparagraph A above, it shall, if required by MWCOG and/or members, perform at its own expense and without additional cost to MWCOG and/or members, those services necessary for the correction of any deficiencies or damages resulting, in whole or in part, from the Contractor's failure. This obligation is in addition to and not in substitution for any other remedy available to MWCOG and/or members under the "Remedies" paragraph, or otherwise available by law.

Severability/Waiver. MWCOG and/or members and Contractor agree that, if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision of this Contract.

Subcontracting or Assignment. The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and neither this Contract nor the services to be performed hereunder shall be subcontracted, or assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of MWCOG and/or members. MWCOG and/or members have the right to withhold such consent for any reason MWCOG and/or members deem appropriate.

Survival. The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

Termination. If the Contractor fails to fulfill its obligations under the Contract properly and on time, or otherwise violates any provision of the Contract, MWCOG and/or members may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at MWCOG's and/or members option, become MWCOG's and/or member's property. MWCOG and/or members shall pay the Contractor

fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and MWCOG and/or members can affirmatively collect damages.

Termination of Contract for Convenience. The performance of work under this Contract may be terminated by MWCOG and/or members, in whole or in part, upon written notice to the Contractor, when MWCOG and/or members determines such termination is in the best interest of MWCOG and/or members. The termination for convenience is effective on the date specified in MWCOG's and/or members written notice. MWCOG and/or members will pay for all reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

Termination of Multi-Year Contract. If MWCOG and/or members fail to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either MWCOG's and/or members rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and MWCOG and/or members from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. MWCOG and/or members shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

Time is of the essence. Time is of the essence in Contractor's performance of each and every obligation and duty under this Contract.

Whole Contract. This Contract constitutes the complete and exclusive statement of the Contract between the parties relevant to the purpose described herein and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject matter of this Contract.

(Revised 8/22/2017)