

# **REQUEST FOR PROPOSALS FOR**

## **INFORMATION TECHNOLOGY PROFESSIONAL SERVICES AND STAFF AUGMENTATION**

Contract Number: 22P172

Issue Date: October 31, 2022

Proposals Due: December 5, 2022 at 4:30 PM Local Time

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RFP Administrator

Metropolitan Council

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# INSTRUCTIONS FOR PREPARATION OF PROPOSALS

## 1. REQUEST FOR PROPOSALS

In this Request for Proposals (RFP), the Metropolitan Council (Council) is soliciting proposals for the following services: Information Technology (IT) staff augmentation resources and or IT professional/managed services.

The specific services requested in this RFP are detailed in *Attachment to the Proposal Instructions: Scope of Work*.

Failure to follow these instructions and requirements may result in the rejection or disrating of your proposal. The Council is not responsible for any costs incurred by prospective proposers (Proposers) in the preparation and presentation of their proposals.

## 2. COUNCIL RIGHTS

The Council reserves the right to cancel this RFP in writing or postpone the date and time for submitting proposals at any time prior to the proposal due date. No Proposer shall have a right to make a claim against the Council in the event the Council accepts a proposal or does not accept any or all proposals. The Council by this RFP does not promise to accept the lowest cost or any other proposal and specifically reserves the right to reject any or all proposals, to waive any or all informalities or irregularities in the proposals received, to investigate the qualifications and experience of any Proposer, to reject any provisions in any proposal, to modify RFP contents, to obtain new proposals, to negotiate the requested services and contract terms with any Proposer, or to proceed to do the work otherwise.

The Council will evaluate Proposers for responsibility. The responsibility evaluation will be based on the criteria listed below (a – j). By submitting a proposal, the Proposer agrees to provide additional information, upon request, with respect to the listed criteria. If the proposer refuses to provide the information upon request, it may be disqualified from further consideration:

- (a) Financial resources adequate to perform the contract, or the ability to obtain them;
- (b) Ability to meet the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- (c) A satisfactory performance record;
- (d) A satisfactory record of integrity and business ethics;
- (e) The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them;
- (f) Compliance with applicable licensing and tax laws and regulations;
- (g) The necessary production, construction, and technical equipment and facilities, or the ability to obtain them;

(h) Compliance with Affirmative Action and Disadvantaged Business Program requirements;

(i) Disclosure of all actual, potential, and perceived conflicts of interest and adequate mitigation if applicable; and

(j) Other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.

### 3. PROJECT TIME FRAME

Project Milestone	Tentative Completion Date
Issue Date	October 31 ,2022
QuestCDN Tutorial Meeting	November 2, 2022 at 10:30 AM
Pre-Proposal Meeting	November 9, 2022 at 10:00 AM
Questions Due	November 16, 2022
Proposal Due Date	December 5, 2022 at 4:30 PM
Award Date	January 2023

**End-User Tutorial for QuestCDN** will be held on **November 2, 2022 at 10:30 AM**, via Microsoft Teams. Proposer may join from the following link:

**Proposers may join from the following meeting link:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NmQ2N2Y0NzUtOTJkMi00NzdiLTk2ZDgtYjNmZWVkODMxMmQ3%40thead.v2/0?context=%7b%22Tid%22%3a%221510a457-d8d4-4a01-896c-9411657f5f9c%22%2c%22Oid%22%3a%2298405ad2-ad1c-4bc1-b4a8-8d7f31592a48%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NmQ2N2Y0NzUtOTJkMi00NzdiLTk2ZDgtYjNmZWVkODMxMmQ3%40thead.v2/0?context=%7b%22Tid%22%3a%221510a457-d8d4-4a01-896c-9411657f5f9c%22%2c%22Oid%22%3a%2298405ad2-ad1c-4bc1-b4a8-8d7f31592a48%22%7d); Meeting ID: 268 454 383 739, Passcode: euyT8s

**Or call in (audio only):** [+1 469-998-7409,,185458364#](tel:+14699987409185458364) United States, Dallas, Phone Conference ID: 185 458 364#

If you plan to attend End-User Tutorial for QuestCDN please e-mail [marie.ozanne@metc.state.mn.us](mailto:marie.ozanne@metc.state.mn.us) so that you can be recorded as a participant. Those proposers who do not yet have a QuestCDN account or need a refresher on navigating QuestCDN are strongly encouraged to attend.

A **Pre-Proposal Meeting** will be held on **November 9, 2022**, at 10:00 AM, via Microsoft Teams.

**Proposers may join from the following meeting link:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_YTJiYzUzNGltNzU2YS00YmZmLTlmZDEtNmQ4MTk0NDU0NTFj%40thead.v2/0?context=%7b%22Tid%22%3a%22ddbff68b-482a-4573-81e0-fef8156a4fd0%22%2c%22Oid%22%3a%22d65f97ce-797a-4c6d-89b5-95e58ae86dc9%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTJiYzUzNGltNzU2YS00YmZmLTlmZDEtNmQ4MTk0NDU0NTFj%40thead.v2/0?context=%7b%22Tid%22%3a%22ddbff68b-482a-4573-81e0-fef8156a4fd0%22%2c%22Oid%22%3a%22d65f97ce-797a-4c6d-89b5-95e58ae86dc9%22%7d); Meeting ID: 265 279 550 709, Passcode: ushdHW

**Join with a video conferencing device:** [metro council@m.webex.com](mailto:metro council@m.webex.com); Video Conference ID: 1 116 838 364 3; [Alternate VTC instructions](#)

**Or call in (audio only):** [+1 763-600-8619,250640878#](tel:+17636008619250640878) United States, Plymouth Phone Conference ID: 250 640 878#

If you plan to attend **Pre-Proposal Meeting**, please e-mail [marie.ozanne@metc.state.mn.us](mailto:marie.ozanne@metc.state.mn.us) so that you can be recorded as a participant. Proposers are strongly encouraged to attend. Completion dates for the project milestones in this section are tentative only and are subject to modification by the Council.

#### 4. BACKGROUND

The Metropolitan Council is the regional agency of government for the Twin Cities metropolitan area. Centered on the cities of Minneapolis and Saint Paul, the area is made up of the seven counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

The metro area is home to 3 million people in 7 counties and 186 cities and townships, encompassing nearly 3,000 square miles.

Created by the Minnesota Legislature in 1967, the Council fosters efficient and economic growth for a prosperous metropolitan region. The Council partners with local governments to coordinate the orderly development of the metro area, and provides innovative, efficient regional services that benefit from economies of scale.

The Council's governing board has 17 members, appointed by the governor. Sixteen members represent geographic districts of roughly equal population across the region. The Council chair, the 17th member, serves at large.

The Council's planning, investments, and services help provide the foundations for regional economic vitality. Guiding this work is the Council's regional development guide, called *Thrive MSP 2040*. *Thrive* is a policy plan that state law requires the Council to prepare at least every 10 years as a framework for the metropolitan area's "orderly and economical" development.

*Thrive* identifies five regional outcomes to achieve:

- Stewardship – responsibly managing the region's natural and financial resources
- Prosperity – fostering investments in infrastructure and amenities that strengthen the region's economic competitiveness
- Equity – connecting all residents to opportunity and creates viable housing, transportation, and recreation options for people of all races, ethnicities, incomes, and abilities
- Livability – creating the places and infrastructure that enhance the quality of life of the region's residents
- Sustainability – preserving the region's capacity to maintain and support its well-being and productivity for generations to come

*Thrive* serves as a foundation for coordinated and consistent planning between regional and local governments. This coordination, in turn, helps achieve the regional outcomes that *Thrive* affirms.

From *Thrive's* overall policy direction, the Council develops plans for regional transportation, wastewater, and park systems that provide the framework for the comprehensive land use plans of local governments.

The Council makes strategic investments in a growing network of bus and rail transitways, and awards grants to support transit-oriented development to increase transportation choices, expand housing and living options, and foster economic activity. The Council also plans and funds acquisition and development of a world-class system of regional parks and trails.

Metro Transit, an operating division of the Council, carries more than 84 million bus and rail passengers each year, and wins awards for innovation and energy efficiency.

The Council collects and treats wastewater at rates 40% lower than those charged by peer regions, and regularly wins state and national awards for environmental achievements.

Through its Metropolitan Housing and Redevelopment Authority, the Council provides affordable housing opportunities for low- and moderate-income individuals and families.

The work of the Council is organized into four major units:

- Metro Transit – Bus, light rail, and commuter rail development and operations.
- Metropolitan Transportation Services – Regional transportation planning, Metro Mobility services, dial-a-ride transit, and contracted transit services.
- Environmental Services – Wastewater treatment, water supply and water quality.
- Community Development - Regional parks and natural resources, research and regional policy, local planning assistance, Livable Communities grant program, and Metropolitan Housing and Redevelopment Authority.

This RFP is being issued for the Regional Administration Division of the Metropolitan Council. The Metropolitan Council is the contracting body.

## 5. RFP ADMINISTRATOR; PROPOSAL QUESTIONS; ADDENDA

The RFP Administrator for this Request for Proposals is:

Name: Marie Ozanne

Email: [marie.ozanne@metc.state.mn.us](mailto:marie.ozanne@metc.state.mn.us)

All questions regarding this RFP are to be directed only to the RFP Administrator. **Proposers may be disqualified if any unsolicited contact related to this RFP is made with an employee or representative of the Council other than the RFP Administrator during the proposal process.**

If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the Scope of Work, or other RFP documents, or finds discrepancies in or omissions from the specifications, the person may submit to the RFP Administrator a written request for an interpretation or correction by **November 16, 2022. Only written requests will be accepted.** The person submitting the request will be responsible for its prompt delivery. Legible fax transmissions of written requests and e-mailed questions are acceptable. If the

RFP Administrator elects to answer any questions, all RFP recipients will receive a written response.

Any corrections or changes to this RFP will be made by written addendum only and will be distributed to all known recipients of the RFP document at the address provided by the recipient.

## 6. PROPOSAL FORMAT

- A. One complete, PDF copy of the proposal is required. The proposal should be assembled as a single, searchable and printable PDF and should be bookmarked. Electronic signatures are acceptable.

All Proposals MUST be submitted through QuestCDN.com. Complete digital project documents are available at

[https://qap.questcdn.com/qap/projects/prj\\_browse/ipp\\_browse\\_grid.html?projType=all&provider=663007&group=78](https://qap.questcdn.com/qap/projects/prj_browse/ipp_browse_grid.html?projType=all&provider=663007&group=78). Proposers must be a registered Plan Holder on QuestCDN in order to submit a proposal.

To register as a Plan Holder, input the QuestCDN project number **8324215** on the web site's project search page to access the project advertisement page and download the digital documents. Contact QuestCDN Customer Support at 952-233-1632 or [info@questcdn.com](mailto:info@questcdn.com) for assistance.

For this project, proposals will ONLY be received and accepted via the online electronic bid service through QuestCDN.com. To access the electronic bid form where proposals may be uploaded, click the online bid button at the top of the project advertisement page.

Applicable download delivery and online bidding fees are listed on the QuestCDN project advertisement page.

- B. All proposals must be clearly marked "22P172 - IT Professional Services and Staff Augmentation" as well as include the name and address of the Proposer.
- C. Acknowledgment of receipt, by number, of each RFP addendum, if any, must be included with the proposal.

## 7. SUBMISSIONS OF PROPOSALS

All proposals must be addressed as follows:

Marie Ozanne  
Metropolitan Council  
Proposal for "22P172 - IT Professional Services and Staff Augmentation" enclosed  
390 N Robert St  
St Paul, MN 55101

Proposals must be **electronically submitted** to the Council, via QuestCDN as indicated in Section 6, by the date and time indicated in section 3. Proposals cannot be submitted after the specified time and date. It is wholly the responsibility of the Proposer to ensure that the proposal package is submitted on time.



The submission of a proposal shall constitute an acknowledgment upon which the Council may rely that the Proposer has thoroughly examined and is familiar with the RFP, the attachments (including the Scope of Work and the Sample Contract), the addenda (if any), and work sites as applicable, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the services to be provided. The failure or neglect of a Proposer to do so shall in no way relieve the Proposer from any obligations with respect to the proposal or the contract issued as a result of this RFP. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any aspect of the RFP, attachments (including the Scope of Work), addenda (if any), work sites, statutes, regulations, ordinances or resolutions.

## **8. ITEMS REQUIRED TO BE SUBMITTED WITH THE PROPOSAL**

Items listed in this section must accompany your proposal. If any required item is omitted, the proposal may be found non-responsive and will not receive further consideration. See the referenced sections for additional details on some requirements.

### **Proposal Document**

(See Attachment Number 1, Scope of work for further information)

- 1. Transmittal Letter / Executive Summary: Two (2) Pages Maximum.**
  - i. The proposal shall be accompanied by a transmittal letter signed by an officer or managing principal who can bind the company to the offer presented and provide a personal commitment to the success of the project. The transmittal letter must acknowledge receipt of all addenda issued, by number.
  - ii. The proposer shall outline the topic areas addressed by the proposal; the proposal does not need to address all topic areas.
- 2. Proposer Description: Two (2) Pages Maximum.**
  - i. Identify the Proposer's organization, including the complete legal name of the company, the company's complete corporate address, the name and position of person to be contacted regarding the proposal and his/her address, telephone number, fax number, and e-mail address.
- 3. Summary of Proposer Managed & Professional Services: Five (5) Pages Maximum**
  - i. Provide examples and references of managed and professional services.
- 4. Experience and Sub-Consultant Qualifications: Five (5) Pages Maximum.**
  - i. A statement of qualifications and relevant firm experience.
  - ii. If sub-consultants are proposed to be used, the discipline they would provide services in, and a brief description of their qualifications and experiences.
  - iii. Identify the sub-consultant's organization, including the complete legal name of the company, the company's complete corporate address, the name and position of person to be contacted regarding the proposal

and his/her address, telephone number, fax number, and e-mail address.

**5. Key Personnel: Six (6) Pages Maximum.**

- i. Proposers should list key personnel who would be available to work on Council projects. Identify key individuals from the firm who will serve as Project Manager(s) and/or who will serve as discipline lead(s). For each person listed include their resume, a brief synopsis of his or her qualifications, experience, and work location.
  - a. Key Personnel are defined as follows: (a) Project Manager – the person who will have day to day responsibility for the management, completion, and success of the project and who will provide day to day coordination with the Council and (b) Discipline Lead – the person who will have day to day responsibility for the discipline team and is responsible for the completion of the task within that discipline.
  - b. Each resume shall not exceed two pages.

**A. Service Delivery Plan: Ten (10) Pages Maximum.**

- i. Proposers should describe how they intend to make key personnel available to perform the work, and the ability of the proposer staff to be present (on site or virtually) to meet with Council staff at Council facilities when necessary. Proposers should also describe their project management plan to provide the services on an as-needed basis.
- ii. Describe the Proposer's organization, including the number and organization of staff located in the Twin Cities area available to support Metropolitan Council projects, and the number and organization of staff located elsewhere available to support Metropolitan Council projects.

**B. Proposer Certifications:**

The following certification(s) must be included for the Proposal to be considered:

- i. If the amount of the proposal exceeds \$100,000, either: 1) a currently effective Affirmative Action Certificate of Compliance, or 2) Affirmative Action Certification Statement (section 17)
- ii. If the amount of the proposal exceeds \$500,000, either: 1) a currently effective Equal Pay Certificate of Compliance, or, 2) Equal Pay Certification Statement (section 23).
- iii. Subcontractor Information Form (section 18)
- iv. Disclosure and Certification Regarding Conflict of Interest (Section 12)

**C. Price Proposal**

(See Attachment Number 3, Price Sheet for further information)

- i. A detailed price proposal executed by an officer of the proposing firm.

**D. List of Additional Information:**

- i. Proposers should briefly identify additional information, if any, that will be included in the Appendix)
- ii. Proposers should identify any exceptions to the contract that your firm would like the Council to take into consideration.

## 9. COVID-19 VACCINATION/TESTING REQUIREMENT

In accordance with Metropolitan Council's Emergency Procedure C1c COVID-19 Vaccine and Testing Requirement Procedure, Covered Individuals must be fully vaccinated against COVID-19 as defined in the procedure or submit to testing as defined in the Contract at least once a week (see *Attachment to Proposal Instructions: Sample Contract, section 14*).

## 10. WITHDRAWAL OR MODIFICATION OF PROPOSALS

Each proposal shall constitute a binding, irrevocable offer for a period of 120 days after the date the proposals are due. Proposals which have been submitted to the Council may be withdrawn in QuestCDN by the Proposer prior to the due date and time of the Proposal. Withdrawn proposals will not be reviewed by the Council.

A Proposer may submit a modified proposal prior to the time proposals are due provided that any previous proposal has been withdrawn via QuestCDN.

## 11. PROPOSAL EVALUATION CRITERIA; CONTRACT AWARD

Proposals will be evaluated by an Evaluation Panel to assess the Proposer's likelihood of successfully accomplishing the prospective project.

The Evaluation Panel will consider all the material submitted by the Proposer and other information the Evaluation Panel may obtain to determine whether the Proposer is capable of and has a history of successfully completing projects of this type including, without limitation, additional information the Evaluation Panel may request, interviews or oral presentations.

Proposals will be evaluated on the basis of the following criteria. **The Evaluation Panel will consider the trade-off between proposal price and the other evaluation criteria in determining the proposal which is most advantageous to the Council.**

Ranking	Evaluation Criteria
1	The <b>quality</b> of the proposal including, without limitation, its completeness in addressing the requirements of this RFP and Scope of Work, the work plan and schedule submitted as a part of the proposal and demonstrated grasp of the work required for this project.

Ranking	Evaluation Criteria
2	The <b>Qualifications/Experience of the proposer</b> including, without limitation, general qualifications, specialized qualifications and professional competence in areas directly related to this RFP, and successful completion of similar projects. The proposer's experience on similar projects with the Council or with others of similar type, size and complexity including, without limitation, any references provided by the Proposer. All proposed key personnel shall be identified.
3	<b>Service Delivery Plan</b> - Proposers should describe how they intend to make key personnel available to perform the work, and the ability of the proposer staff to be present on site to meet with Council staff at Council facilities when necessary. Proposers should also describe how they intend to meet quality of work requirements, any value add operations and how project management plan to provide the services on an as-needed basis.
4	The qualifications and experience of the <b>key personnel</b> proposed to be used to complete work assignments. All proposed key personnel shall be identified.
5	The <b>Qualifications/Experience of proposed Sub-Consultant(s)</b> including, without limitation, general qualifications, specialized qualifications and professional competence in areas directly related to this RFP, and successful completion of similar projects. Identify all proposed sub-consultant(s) its qualifications & experiences to provide these services. <b>Experience</b> of the Proposer on similar projects with the Council or with others including, without limitation, any references provided by the Proposer.
The <b>price</b> of the proposal. Price will be approximately equal in importance to a combination of all other criteria shown above.	

The Evaluation Panel will review, analyze, and evaluate all proposals based on the Evaluation Criteria.

If required by Council procedures, the Evaluation Panel will determine and recommend to the Council through the appropriate committee which proposal, in its opinion, represents the most advantageous offer to the Council. The committee will review the findings and recommendations of the Evaluation Panel, and forward them along with any of its own comments, findings and recommendations to the Council for action. The Council may make its own findings and determinations.

A determination will be made as to which proposal, if any, is **most advantageous to the Council**, by considering the evaluations of the proposals, the best value to the Council, and the best interests of the Council.

If a proposal is accepted and award is authorized, in accordance with the Council's policies and procedures, a contract for the work will be executed. Until authorization of the award and

execution of the contract, the Council has no obligation for the cost associated with any work performed.

## 12. CONFLICT OF INTEREST

### A. Definition of Personal Conflict of Interest

A “personal conflict of interest” exists when (1) a Council employee or officer, or an employee or officer of any agency interested in this Contract, and any people closely related to such employees or officers, has a financial interest in the Proposer’s business or this Contract; or (2) a person associated with the Proposer has an interest which would conflict in any manner or degree with the Proposer’s performance of this Contract.

### B. Definition of Organizational Conflict of Interest

An “organizational conflict of interest” occurs when any of the following circumstances arise:

1. Lack of Impartiality or Impaired Objectivity. When the Proposer is unable, or potentially unable, to provide impartial or objective assistance or advice to the Council due to other activities, relationships, contracts, or circumstances.
2. Unequal Access to Information. The Proposer has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
3. Biased Ground Rules. During the conduct of an earlier procurement, the Proposer has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.

### C. Disclosure and Mitigation of Actual, Potential, and Perceived Conflicts of Interest

Each Proposer must determine whether any actual, potential, or perceived conflicts of interest will exist if the Council awards a contract to the Proposer under this solicitation. Proposers are required to submit the Disclosure and Certification Regarding Conflict of Interest form included in this solicitation to certify, to the best of its knowledge and belief, that either: (1) the Proposer has determined that there are no relevant facts or circumstances which could give rise to conflicts of interest; or (2) the Proposer has determined that one or more conflicts of interest exists. If one or more conflicts of interest exist, the Proposer must provide a mitigation plan. Provisions will be included in the contract for this Project imposing continuing obligations on the successful proposer to disclose to the Council all conflicts of interest which may be later discovered and consequences which may arise from such a situation; and requiring the successful Proposer to cooperate with the Council in the elimination of any conflicts of interest.

### D. Mitigation or Neutralization of Conflicts of Interest

The Council, in its sole discretion, will determine whether a conflict of interest exists, whether a conflict of interest has been sufficiently mitigated, or whether a conflict of interest cannot be mitigated. For additional information, please see: the Council’s Conflict of Interest Guidelines, *available online at:* <https://metrocouncil.org/About-Us/What-We->

[Do/DoingBusiness/Contracting-Opportunities/Conflict-of-Interest-Guidelines-and-Disclosure-of.aspx](#); 49 C.F.R. 19.43; 2 C.F.R. 200.319(b)(5); and the Federal Transit Administration Circular 4220.1F Chapter VI paragraph 2(a)(4)(h), Rev. 4, 3/18/2013.

### 13. PROTESTS

Proposers who wish to file a protest regarding the RFP process shall conform in all respects to the Council's Protest Procedure. (*See Attachment to the Proposal Instructions: Protests for Procurements \$25,000 and Over.*) All protests must be addressed to the RFP Administrator at the address indicated in section 5.

### 14. DATA PRACTICES ACT

The Minnesota Government Data Practices Act provides that the names of proposers are public once the proposals are opened. With the exception of trade secret information as defined in Minnesota Statutes, section 13.37, all other information submitted by a Proposer in response to this RFP becomes public at the times specified in the act and is then available to any person upon request. Trade secret information is defined in section 13.37 as data, including a formula, pattern, compilation, program, device, method, technique, or process, (1) that was supplied by the Proposer; (2) that is the subject of efforts by the Proposer that are reasonable under the circumstances to maintain its secrecy; and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

**Any information in its response to this RFP for which the Proposer claims protection as trade secret information in accordance with the above provisions must be limited and set apart in the RFP response on separate pages, with a heading that identifies the information as trade secret information.** The Council will make the ultimate determination whether the information meets the applicable definition. Any information submitted in response to this RFP which does not meet the legal definition will be considered public information, regardless of the Proposer's identification of it as trade secret information. **Proposers are advised that blanket-type identification by designating whole pages or sections as containing trade secret information will not assure protection --- the specific information for which the Proposer claims trade secret protection must be clearly identified as such.**

**Submitted proposals shall not be copyrighted. A statement by the Proposer that submitted information is copyrighted or otherwise protected does not prevent public access to the information contained in the RFP response.**

### 15. FORM OF CONTRACT

A copy of the standard Council contract for professional/technical services is attached to this RFP as Attachment to the Proposal Instructions: Sample Professional/Technical Service Contract. The standard contract outlines various legal and administrative duties and responsibilities assumed by persons or organizations contracting with the Council. **The successful Proposer will be expected to execute this contract.**

## 16. INCORPORATION OF AFFIRMATIVE ACTION REQUIREMENTS

If a contract based upon this RFP or any modification of the contract exceeds a value of \$100,000, the provisions of Minnesota Statutes, section 473.144, and Minnesota Rules, parts 5000.3400 to 5000.3600 will be incorporated into said contract or modification. The referenced provisions relate to contractor requirements for affirmative action plans for minority individuals, women, and disabled individuals. Copies of the referenced provisions are available upon request from the RFP Administrator. Copies may also be accessed at the following internet web sites:

- Minnesota Statutes, section 473.144: [www.revisor.leg.state.mn.us/stats/473/144.html](http://www.revisor.leg.state.mn.us/stats/473/144.html)
- Minnesota Rules, parts 5000.3400 - .3600: [www.revisor.leg.state.mn.us/arule/5000/](http://www.revisor.leg.state.mn.us/arule/5000/)

## 17. CERTIFICATE OF COMPLIANCE FOR PUBLIC CONTRACTS

The provisions of this section 17 apply only if the amount of the proposal exceeds \$100,000.

Under the provisions of Minnesota Statutes section 473.144, the Council may not accept a bid or proposal for over \$100,000 from any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has submitted an affirmative action plan to the Minnesota Commissioner of Human Rights for approval. The Council may not execute a contract for over \$100,000 with any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights. A certificate is valid for 4 years. In addition, for any business which did not have more than forty (40) full-time employees in Minnesota, but which had more than forty (40) full-time employees on a single working day during the previous twelve (12) months in the state in which it has its primary place of business, the Council may not execute a contract with such a business unless the business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights, or the business certifies to the Council that the business is in compliance with federal affirmative action requirements.

To ensure compliance with this statute, Proposers must submit with their proposal **EITHER:**

- A. a copy of the Proposer's currently effective affirmative action Certificate of Compliance issued by the Minnesota Department of Human Rights; OR
- B. an Affirmative Action Certification Statement (see Attachment to the Proposal Instructions: Affirmative Action Certification Statement) with information which indicates that the Council can accept the Proposer's proposal.

Failure to submit one of these documents along with the proposal may result in the proposal being rejected and returned to the Proposer without further consideration. Proposers are advised that the Council may verify representations made by a Proposer in any Affirmative Action Certification Statement which is submitted.

If a Proposer submits an Affirmative Action Plan for approval of the Minnesota Commissioner of Human Rights in order to qualify for acceptance of its proposal by the Council and becomes the selected vendor, the Council will not execute the contract for services until the Proposer has actually been issued a Certificate of Compliance from the Minnesota Department of Human Rights. The Council is under no obligation to delay the award and execution of a contract until a Proposer has completed the human rights certification process. It is the sole responsibility of a Proposer to apply for and obtain a human rights certificate prior to contract award and execution.

## **18. SUBCONTRACTING**

Proposers may subcontract for functions to fulfill the obligations of their proposal. All Proposers **MUST** complete and include the attached Subcontractor Information Form with their proposal, even if no subcontractors are proposed to be used on this project. If the required Subcontractor Information Form is not submitted, the proposal may be found to be non-responsive and will not receive further consideration.

Proposers must indicate on the form either:

- A. that no subcontractors will be used on this project; or
- B. the name, address, and telephone number of a) each subcontractor proposed to be used on the project AND b) each subcontractor who submitted a bid or quote for the project but was not selected by the Proposer.

Proposers must also complete and execute the certification on page two of the form. (See *Attachment to the Proposal Instructions: Subcontractor Information Form.*)

## **19. [RESERVED - THIS SECTION IS UNUSED IN THIS RFP]**

## **20. [RESERVED - THIS SECTION IS UNUSED IN THIS RFP]**

## **21. [RESERVED - THIS SECTION IS UNUSED IN THIS RFP]**

## **22. INCORPORATION OF EQUAL PAY REQUIREMENTS**

If a contract based upon this RFP or any modification of the contract exceeds a value of \$500,000, the provisions of Minnesota Statutes chapter 363A.44 will be incorporated into said contract or modification. The referenced provisions relate to contractor requirements for equal pay certification. Copies of the referenced provisions are available upon request from the RFP Administrator. Copies may also be accessed at the following internet web site: Minnesota Statutes chapter 363A.44: [www.revisor.leg.state.mn.us/stats/363A/44.html](http://www.revisor.leg.state.mn.us/stats/363A/44.html)

## **23. EQUAL PAY CERTIFICATE OF COMPLIANCE FOR PUBLIC CONTRACTS**

The provisions of this section 23 apply only if the amount of the proposal exceeds \$500,000.

Under the provisions of Minnesota Statutes chapter 363A.44, the Council may not accept a bid or proposal for over \$500,000 from any business having forty (40) or more full-time



employees in Minnesota or in the state where the business has its primary place of business on a single working day during the previous twelve (12) months from the due date of this solicitation, unless that business has an equal pay certificate or it has certified in writing that it is exempt. The Council may not execute a contract for over \$500,000 with any business having forty (40) or more full-time employees in Minnesota or in the state where the business has its primary place of business on a single working day during the previous twelve (12) months from the due date of this solicitation, unless that business has an equal pay certificate, evidenced by a Certificate of Equal Pay. A certificate is valid for 4 years.

To ensure compliance with this statute, Proposers must submit with their proposal **EITHER:**

1. a copy of the Proposer's currently effective Equal Pay Certificate of Compliance issued by the Minnesota Department of Human Rights; OR
2. an Equal Pay Certification Statement (see Attachment to the Proposal Instructions: Equal Pay Certification Statement) with information which indicates that the Council can accept the Proposer's proposal.

Failure to submit one of these documents along with the proposal may result in the proposal being rejected and returned to the Proposer without further consideration. Proposers are advised that the Council may verify representations made by a Proposer in any Equal Pay Certification Statement which is submitted.

If a Proposer submits an Equal Pay verification for approval of the Minnesota Commissioner of Human Rights in order to qualify for acceptance of its proposal by the Council and becomes the selected vendor, the Council will not execute the contract for services until the Proposer has actually been issued an Equal Pay Certificate from the Minnesota Department of Human Rights. The Council is under no obligation to delay the award and execution of a contract until a Proposer has obtained an Equal Pay Certificate. It is the sole responsibility of a Proposer to apply for and obtain an Equal Pay Certificate prior to contract award and execution.

## LIST OF ATTACHMENTS TO PROPOSAL INSTRUCTIONS

Attachment Number	Title	Section Reference
1	Scope of Work	1
2	List of Example Positions	1
3	Price Proposal	1
4	Sample Order for Service	1
5	Sample Information Technology Usage Agreement	1
6	Protests for Procurement \$25,000 and Over	13
7	Sample Professional/Technical Services Contract	15
8	Affirmative Action Certification Statement	17
9	Equal Pay Certification Statement	23
10	Subcontractor Information Form	18
11	Disclosure and Certification Regarding Conflict of Interest	12
12	Metropolitan Council Mitigation Plan Template Form	12

## 1. SCOPE OF WORK

(See Proposal Instruction, Section 1, for further information)

**Contract Number:** 22P170 **Project Name:** IT Professional Services and Staff Augmentation

### **Project Overview**

The Metropolitan Council seeks service providers capable of offering IT staff augmentation resources and or IT professional services. The Council intends to enter into Master Contracts with a cumulative award value anticipated to not exceed \$35,000,000 over a five-year period. The Council reserves the right to award one-year Master Contracts with the option to extend for up to five years, in one-year periods.

A Master Contract is multiple contracts used to make repetitive purchases of similar types of services on an as-needed basis. Master Contracts will be signed by the Council and selected Proposer(s) to provide future, undefined work consistent with agreed terms and conditions as detailed in the contract.

The Master Contracts shall not be construed as a guarantee of any number of work/projects or any total dollar amount of compensation. The assignment and number of work/projects will be made by specific Orders for Service to the selected Proposer(s) solely at the discretion of the Council.

The Council anticipates awarding a contract to multiple Proposer(s) for both IT staff augmentation and IT professional/managed services as part of this solicitation. Selected Proposer(s) will be added to a list of approved vendors who will enter a master contract, and work assignment will be issued via an Order for Service request. The work required will be either onsite or virtual and will be specified in the Order for Service.

### **Overview of Order for Service Requests:**

The Council may request an Order for Service from the firms that match the scope of the particular assignment/project or professional/managed service request. See Attachment No. 4 for a Sample Order for Service. The Order for Service request will include:

1. Scheduled Start and End Date
2. Submittal Information and Due Date
3. Responsibilities
4. Skills and Qualifications
5. Required Experience
6. Required Knowledge
7. Desired Knowledge
8. Work Environment/Location Type

## 9. Service Category

## 10. Scope of Work

The respective vendors will receive an Order for Service email for the specific assignment/project. They will have 3 business days from receiving the initial Order for Service email request to respond.

Responses to the Order for Service may be subject to negotiation and shall not exceed the billing/hourly rates provided in the initial price proposal response and incorporated into the contract established by the master contract. The Council may seek clarifying information about and or changes to proposals submitted. All respondents will be notified of the results by email within 3 business days after a proposal is selected or a decision to not accept any proposal is made.

The Council reserves the right in accordance with Minnesota Statutes section 16C.16 to shelter Service Order Requests through our Metropolitan Council Underutilized Business (MCUB) Select Program. This program is intended to reduce barriers and increase utilization of MCUB awarded Master Contracts.

The staff augmentation resources are temporary or long-term contracted professionals provided by a third party and paid hourly. A list of example positions the Council may require are provided in Attachment No. 2. This list is not inclusive of all positions that may be needed. When an Order for Service is sent for staff augmentation respondents will need to furnish the resume of potential candidates with their hourly rate and availability. The vendor may be requested to provide up to an hour of uncompensated time, if requested by the Council, to interview potential candidates prior to final selection.

### **Service Categories:**

The professional services for the purpose of this RFP are any consulting engagement for a fixed fee in exchange for defined deliverable(s) as opposed to an hourly engagement.

Sample engagements the Council may request proposal for, but are not limited to, include:

- Current state assessment and future state recommendations
- Design and installation of network, security, infrastructure hardware
- Configuration of hardware and software
- Build out of monitoring and alerting environments
- Design and build a data warehouse, data lake or data mart
- Design and build an application using Microsoft power apps or azure development tools
- Application architecture recommendation
- Replatform an oracle database to SQL Server in Azure
- ERP vision, strategy and roadmaps

In response to this RFP please provide examples of successfully completed engagements.

### **Service Locations**

Metropolitan Council Regional Administration buildings throughout the seven county twin cities metro area.

### **Proposer Requirements**

- Position Types
  - Proposer will provide a list of IT roles that their organization typically offers along with example hourly rates. See Attachment No. 3 for additional price proposal details
    - If possible, please provide this information for the example roles offered in this RFP.
- Dedicated Account Representative
  - Staff Augmentation service must be provided by a single employee throughout term of contract. Proposer will only be allowed to assign a new employee (with Council approval) once during the term of the contract. This limitation does not apply in the event of termination, resignation, or other acts beyond proposer's reasonable control. Proposer will designate one point of contact who will be solely responsible for council project status updates and advancement. Training & transfer of project knowledge between proposer employee changes will not affect continuity of operations. The Council will not be charged for training & transfer of knowledge to new contractor employee.
- Reporting Requirements
  - The Contractor will be expected to provide, at a minimum a detailed monthly report of staff placed at the Council. This report will include the employee's name, their work location, the assignment starts and end dates, the Council supervisor that the temporary staff is assigned to, and the bill rate.
  - At a minimum, the Contractor will be expected, to meet with Council staff to discuss current and past Orders for Service.
- Background Checks
  - Please detail within your proposal response your background check process.
  - Some assignment/project or professional/managed service requests may require specific types of background checks, and if that is the case, that will be detailed within the Order for Service.

### **Temporary Staff Requirements and Qualifications**

- Temporary Staff Qualifications
  - The Contractor is responsible for all screening of temporary staff and must certify, at the time of the initial staffing request from the Council, that they will provide staff that can perform the needed tasks at the required skill levels and have been properly screened (employment, background, and drug/alcohol).
- Temporary Staffing Replacement Procedures

- Contractor agrees that if temporary staff on assignment cannot report to work, or if temporary staff is not meeting performance expectations, if requested by Council the Contractor shall re-staff the position.
- Temporary Staff Conduct
  - As part of our pre-placement paperwork Contractor will inform temporary employees that they must follow the Code of Conduct required by all Council employees. Contractor understands that we are solely responsible for all employee discipline issues pertaining to our temporary staff.
- Follow Up Procedures
  - Contractor will follow up with the Council to ensure employee arrived on time for the start of their assignment. In addition, will do regularly scheduled follow-ups to check on performance.

### **Council Job Openings**

In the event that a Contractor's temporary employee on assignment with the Council, or former temporary staff, applies for a posted Council job opening and is hired through an open, competitive process, Proposer understands that the Council will not pay a fee for hiring this staff person.

### **Information Technology Usage**

Contractor staff assigned to Orders for Service will be required to sign Information Technology Usage Agreement. See Attachment No. 5 for a Sample of the Council's Information Technology Usage Agreement.

### **Pricing Proposal**

All Proposal fees must be inclusive of any administrative costs, travel expenses, mileage, insurance, and other related Consultant expenses in the performance of the contract tasks and deliverables. See Attachment No. 3 for additional price proposal details.

## 2. LIST OF EXAMPLE POSITIONS

(See Proposal Instructions, section 1, for further information)

A list of example positions the Council may require are provided below. This list is not inclusive of all positions that may be needed.

Agile practitioners
Application Architect
Application Developers (cloud, no code, low code, front end, back end)
Application Integration Architect
Application Integration Developers
Azure Administration
Business Analyst (Business and technical focus)
Cyber and IT Operational Risk Manager
Data Analysts
Data Architects
Data Engineers
Database administrators
DevSecOps Engineers
Identity and Access Management manager and engineers
Infrastructure Engineer
Network Engineer or Technician
Program manager (Business and technical focus)
Project Manager (Business and technical focus)
Report Developers
Security engineers
Telecommunication engineer and/or technician
Test Automation
Test Engineers
Video Conferencing Engineer and/or Technician

### **3. PRICE PROPOSAL**

(See Proposal Instructions, section 1, for further information)

*See attached Excel file for complete price proposal*





4. SAMPLE ORDER FOR SERVICE

(See Attachment No. 1 – Scope of Work for further information)

Date of Request:

Due Date of Request :

Tracking #:

Vendor Name:

Candidate Name:

POSITION TITLE		
<div>Position Responsibilities: Council will provide a description of the position.</div>		
<div>Note: Items in <b>BOLD</b> font and asterisk * below under “Specification” are minimum requirements for <u>Position Title</u>. Items in <b>BOLD</b> font below listed in each role are minimum requirements for working experience/skill. Items not in bold/asterisk are desirable and do not have defined minimums. Defined minimums for these may be established in each request and relevant to the engagement description.</div>		
*Specification	*Minimum Specifications	Identify qualifications (e.g. degree, number of engagements, years of experience, scope of work and/or duration of work – do not just answer Yes/No)
*Scheduled Start:	* Five engagements lasting more than three months in <u>Position Title</u>	
*End Date:	* Three months from start date	
*Level of Education	* B.S. or B.A. Degree	
*Certification	* Degree program or relevant certification dependent on role	
*Years of experience in <u>Position Title</u>	* Five years of experience in Web Specialist role	
SKILLS & QUALIFICATIONS		
* Certification	* Degree program in computer science or related field or relevant certification in role.	
* Accessibility and WCAG standards	* Experience with compliance in web content accessibility and WCAG standards.	
* HTML/XHTML, Javascript (jQuery, AJAX), CSS, XML, XSLT	* Two or more years’ experience in implementing web design using HTML/XHTML, Javascript (jQuery, AJAX), CSS, XML/XSLT	
* Web Content Management Systems	* Two or more years’ experience in programming in a dynamic web content management system	
* Java or .NET	* Two or more years’ experience development work in Java or .NET programming languages	
Object Oriented PHP & database	Experience with object oriented PHP & database programming	
Mobile Applications	Experience with mobile applications including iPhone, iPad, Android, Website, ECommerce. No minimum.	
Social Media Applications	Experience with APIs and Roadmaps; Planning & Development (Facebook, Twitter, etc.). No minimum.	
Web Application Security	Experience in design of security for web applications. No minimum.	

SKILLS & QUALIFICATIONS CONTINUED

SharePoint	Technical SharePoint specific experience and skills including SharePoint Designer workflows, effective use of data view web part (DVWP), content query web part, data form web part, and navigation customization. No minimum	
SharePoint Templates	Technical SharePoint specific experience and skills including SharePoint Designer workflows, effective use of data view web part (DVWP), content query web part, data form web part, and navigation customization. No minimum	
Source Control Hub	Experience using SharePoint templates (site templates, list templates, and master page customization). No minimum	
End User Documentation	Experience in GitHub, SVN, CVS. No minimum.	
Communications requirements	Experience in the development of end user documentation. No minimum.	
Work environment	Working independently and/or in a team environment may be required for some engagements. No minimum	

## 5. SAMPLE INFORMATION TECHNOLOGY USAGE AGREEMENT

(See Attachment No. 1 – Scope of Work for further information)

### Information Technology Usage Agreement

All employees and agents of vendors, contractors and consultants who will access Metropolitan Council information technology/systems in the course of their work for the Metropolitan Council are required to read and sign this Usage Agreement before accessing any computer system attached to the Metropolitan Council network or attaching any computer equipment to the Metropolitan Council network. "Information technology" includes any computer, network, Internet access, electronic mail or other electronic systems used by the Metropolitan Council. Vendor personnel have no expectation of privacy in any electronic communications, use of Metropolitan Council property, or Internet access. The Metropolitan Council reserves the right to review, audit, or monitor any information technology used by vendor personnel. All work shall be performed by the contractor submitting the proposal. Subcontractors will not be allowed unless approved in advance by an agent of the Metropolitan Council. The vendors referenced throughout this user agreement can mean vendor, contractor and/or consultant.

1. Vendor personnel have no expectation of privacy in any electronic communications, use of Metropolitan Council property, or Internet access. Metropolitan Council reserves the right to review, audit, or monitor any information technology used by vendor personnel.
2. All vendor personnel shall use only accounts authorized by the Metropolitan Council IT staff.
3. Vendor personnel may access only those resources for which they are specifically authorized.
4. Vendor personnel are personally responsible for safeguarding their account and log-on information. Passwords shall adhere to the following.
  - a. Passwords shall remain confidential.
  - b. Passwords shall never be displayed, printed, or otherwise recorded in an unsecured manner.
5. Vendor personnel are not permitted to script their user IDs and passwords for log-on access.
6. Vendor personnel are not permitted to allow another person to log-on to any computer utilizing their personal account, if provided, nor are they permitted to utilize someone else's account to log-on to a computer. Authorized system or service accounts may be used by multiple people.
7. Vendor personnel may not leave their workstation logged onto the network while away from their area. Vendor personnel may elect to lock the workstation rather than logging off when leaving for very short time periods.
8. Vendor personnel shall get written approval from the Metropolitan Council prior to loading software onto any Metropolitan Council computer.
9. Vendor personnel shall execute only applications that pertain to their specific contract work.
10. Vendor personnel shall promptly report log-on problems or any other computer errors to the Metropolitan Council ServiceDesk (x1498).
11. Vendor personnel shall promptly notify the Metropolitan Council if they have any reason to suspect a breach of security or potential breach of security.
12. Vendor personnel shall promptly report anything that they deem to be a security loophole or weakness in the computer network to the Metropolitan Council.
13. Vendor personnel shall not install or use any type of encryption device or software on any Metropolitan Council hardware, which has not been approved in writing by the Metropolitan Council.
14. Vendor personnel shall not attach any device to the Metropolitan Council network without written approval from the Metropolitan Council.
15. Vendor personnel may not remove any computer hardware from a Metropolitan Council building for any reason, without prior written approval from the Metropolitan Council.
16. Vendor personnel shall not delete, disable, or bypass any authorized encryption device, or anti-virus or other software program, installed on Metropolitan Council hardware.
17. Vendor personnel shall not attach any network or phone cables to any Metropolitan Council device without written approval from the Metropolitan Council.
18. Vendor's may only use Metropolitan Council owned computer equipment on the Metropolitan Council network.
19. The Metropolitan Council shall not be responsible for any damages to vendor computer equipment that may occur while installing or using software or hardware to connect to the Metropolitan Council network.
20. Vendor personnel may not copy any data and/or software from any Metropolitan Council resource for personal use.
21. Metropolitan Council data and/or software shall not be removed from a Metropolitan Council Building without prior written approval from the Metropolitan Council.
22. Vendor personnel may not utilize Metropolitan Council computer systems or networks for any of the following reasons:
  - a. Game playing;
  - b. Internet surfing not required for their work activity;
  - c. Non-related work activity; or
  - d. Any illegal activity.
23. Vendor personnel utilizing the network or Internet to move large files should obtain prior approval from the Metropolitan Council IT staff by contacting the Metropolitan Council ServiceDesk (x1498).
24. Vendor personnel are prohibited from intercepting or monitoring network traffic by any means, including the use of network sniffers, unless authorized in writing by the Metropolitan Council.
25. Vendor personnel may not give out any Metropolitan Council computer information to anyone. Exception: other vendor personnel needing the information to complete tasks and who have signed this agreement. Information includes but is not limited to: IP addresses, security configurations, etc.
26. All data storage media shall be erased or destroyed prior to disposal.
27. Vendor personnel may not remove or delete any computer software without the written approval of the Metropolitan Council.
28. Vendor personnel shall not attempt to obtain or distribute system or user passwords.
29. Vendor personnel shall not attempt to obtain or distribute door pass codes/passkeys to secured rooms at any Metropolitan Council facility for which they are not authorized.
30. All equipment issued to vendor personnel will be returned in good condition to Metropolitan Council upon termination of the Metropolitan Council/Vendor Personnel relationship.
31. Vendor personnel may not use Metropolitan Council information technology to intentionally send or receive threatening, obscene, abusive, sexually explicit language or pictures.
32. Vendor personnel are prohibited from causing Metropolitan Council to break copyright laws.
33. Use by vendor personnel of any Metropolitan Council information technology will acknowledge acceptance of the above-referenced policies. Any vendor employee who violates any of these policies shall be subject to disciplinary action, including total removal from the Metropolitan Council project as well as being subject to (State) civil and criminal liability.
34. The Vendor will enforce this agreement through discipline of their employees should the employee intentionally violate any of the terms of the above-referenced policies.

\_\_\_\_\_  
Vendor personnel's name, printed

\_\_\_\_\_  
Vendor personnel's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Vendor's name, printed

## External Contractor Password Reset with PIN Agreement and Authorization Form

### Contractor Information

First Name: \_\_\_\_\_ Middle Initial: \_\_\_\_\_  
Last Name: \_\_\_\_\_ Job Title: \_\_\_\_\_  
Company: \_\_\_\_\_ Manager: \_\_\_\_\_

I, \_\_\_\_\_, have read, understand, and agree to abide by Metropolitan Council Password Procedure 3.6e I have read the Procedure 3.6e and agree to abide by the Metropolitan Council Password Procedure.

Signature: \_\_\_\_\_ Date : \_\_\_\_\_

### Contractor Manager/Supervisor Information

First Name: \_\_\_\_\_ Last: \_\_\_\_\_  
Job Title: \_\_\_\_\_ Manager: \_\_\_\_\_  
Company: \_\_\_\_\_ Email address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

### Contractors Manager/Supervisor

I, \_\_\_\_\_ (print name of the Manager/Supervisor) of the above named, authorize and add the responsibility of Password Reset with PIN to this individual to support normal job duties. Further, we will support our contractor in carrying out these duties. I have read, understand, and agree to abide by the Metropolitan Council Password Procedure 3.6e.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## 6. PROTESTS FOR PROCUREMENT \$25,000 AND OVER

(See Proposal Instructions, section 13, for further information)

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Issued By:	<b>Contracts &amp; Materials</b>	Document No:	30.06.02
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### Policy

The Metropolitan Council strives to ensure fairness to every offeror for all goods and services procured through the established competitive processes. The Council acknowledges its responsibility to promptly and fairly investigate procurement protests that conform to the requirements of this procedure. The Council also acknowledges the interest of the public in resolving unjustified claims without unduly delaying needed procurements. To balance the interests of offerors and the public, these procedures require that offerors file protests in a timely manner, carefully document their allegations, and conform their protests to all requirements contained herein.

Offerors are encouraged to resolve questions or disputes informally before pursuing a written protest. If offerors believe they will be filing a protest, they are encouraged to advise the Council verbally as soon as possible in order to maximize the offeror's options.

Written protests will be reviewed by designated staff, and a written protest decision will be issued. Protesters may request a single reconsideration of the protest decision. The decision of the designated protest authority is final. The Council will not consider nor respond to oral protests.

### Purpose

This procedure provides a process for a full and fair consideration of all claims that raise legitimate questions about the procurement process without allowing proposers to exploit protest procedures to obtain a competitive advantage or obstruct needed procurements. The requirements of this procedure serve important public purposes and offerors are cautioned that noncompliance will result in waiver of protest rights. Offerors must review the Council procurement protest procedure carefully before filing a protest. At the time of filing a protest, the offeror agrees to be bound by this procedure.

### Applicability

This policy is applicable to all protests arising from Council procurements \$25,000 and over. Note that violations of federal law or regulation will be handled by the complaint process as stated within that law or regulation.

If this procurement is funded in whole or in part by the Federal Transit Administration (FTA), offerors are hereby notified that a protester must exhaust all administrative remedies with the Council before pursuing a protest with FTA. Reviews of protests by FTA will be limited to:

1. the Council's failure to have or follow its protest procedures, or its failure to review a complaint or protest; or
  - a) The protest must specify the following:

The protester's name, the protester's company name, address, and phone and fax numbers.

The project name and number and the contract number or other solicitation identifier.

A complete and accurate identification of the grounds for protest, including references to any and all laws, regulations, or other legal authority that the protester claims were violated.

A presentation of any and all evidence known to support any allegations of protest including but not limited to the names of the persons involved, a description of relevant occurrences, the documents upon which the protester relied, the particular language in the solicitation documents which is alleged to be defective or illegal, and a description of the Proposer's material, component, or product which is adversely affected by allegedly defective or illegal language.

Complete identification of the relief the protester is seeking.

b) Protest Filing Deadlines

Solicitation phase protests must be filed no later than three (3) working days prior to the scheduled bid opening or the proposal due date.

Award phase protests must be filed within five (5) working days of Council action, for those items which by policy require Council action, **or** within five (5) days of the award for those items not requiring Council action.

Requests for reconsideration must be filed within five days of the protest decision.

Failure to file a protest within the time period indicated shall result in waiver of the protest.

**Designated Contact Person**

2. Reviews the protest and:

- a) Reports the protest filing to the General Manager or Division Director and the Office of General Counsel, and
- b) If the protest is a Solicitation Phase Protest, determines if the scheduled bid opening date/proposal due date should be extended to allow for resolution of the protest and, if so, issues an addendum to all offerors.

Notifies funding authorities (such as the FTA) upon protest filing and as required by rule or regulation. Notification to FTA will include a brief description of the protest, the basis of

- c) disagreement, the status of the protest, and whether an appeal has been taken or is likely to be taken.
- d) Decide if the protest has an impact on other offerors. If the protest does have an impact on other offerors, notify them.

- Protest Authority** 3. Render a written decision that addresses, in detail, each substantive issue raised in the protest. The decision must be issued and appropriate action must be taken as quickly as possible but no later than ten (10) working days after the filing of the protest.

Department	Protest Authority
Environmental Services	General Manager of Wastewater Services or ES Division Director
Metro Mobility	Director of Transportation Planning
Metro Transit	General Manager
Community Development	Division Director
All other	Deputy Regional Administrator

- Protester** 4. If the protester feels the protest decision is not valid, based on new information not previously known or an error of law or regulation, s/he may seek reconsideration within 5 working days through a written request filed with the protest authority.

- Protest Authority** 5. Reconsideration of a protest decision:
- a) Determine if the grounds for reconsideration are valid.
  - b) If the grounds are deemed valid, render a decision.
  - c) If the grounds are deemed invalid, reject the reconsideration request.

- Protest Authority Or Designee** 6. Convey the final decision to protester and to other agencies.

**Records Retention** All protest-related documents must be retained for ten (10) years.

**Questions** Questions regarding this policy may be directed to the Purchasing Manager/Contracts and Documents Unit Manager.

**Deviations** In appropriate circumstances, the protest authority may extend the stated deadlines. No other deviations are allowed.



## 7. SAMPLE PROFESSIONAL AND TECHNICAL SERVICES CONTRACT

(See Proposal Instructions, section 15, for further information)

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

**METROPOLITAN COUNCIL  
390 NORTH ROBERT STREET  
SAINT PAUL, MINNESOTA 55101**

**THIS CONTRACT** is entered into between the Metropolitan Council, a Minnesota political subdivision ("the COUNCIL"), and \_\_\_\_\_, a business authorized to do business in Minnesota, with its regular place of business at \_\_\_\_\_ ("the CONTRACTOR").

**WHEREAS**, the COUNCIL requires the services described in Exhibit A to this Contract; and

**WHEREAS**, the COUNCIL has issued a Request for Proposals, dated \_\_\_\_\_ for the services, and

**WHEREAS**, the CONTRACTOR submitted a proposal dated \_\_\_\_\_ to perform such services; and

**WHEREAS**, the COUNCIL has reviewed the CONTRACTOR's proposal and, in reliance on the representations made, has awarded the Contract to the CONTRACTOR.

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Contract, the parties agree as follows:

### **I. SCOPE OF WORK**

**1.01 Scope of Services.** This Contract is to provide professional/technical services for: \_\_\_\_\_.

The COUNCIL agrees to engage the CONTRACTOR, and the CONTRACTOR agrees to perform in a satisfactory, timely, and proper manner, as determined by the COUNCIL, the services specified in Exhibit A, which is attached to and made a part of this Contract. If there is a contradiction between the terms of this Contract and Exhibit A, the terms of this Contract shall prevail. In the performance of its obligations pursuant to this Contract, the CONTRACTOR agrees to comply with all applicable provisions of federal, state, and local laws, regulations and directives, and agrees that the most recent of such provisions shall govern this Contract at any particular time.

For the purposes of this Contract:

1. "Work" shall mean all authorized services to be provided by the CONTRACTOR under this Contract;
2. "Deliverables" shall mean the studies, reports, sketches, drawings, maps, models, photographs, audio/video tapes, computer programs/models, electronic media, specifications, cost estimates, field data, test data, and other tangible documents identified in the attached exhibits to be provided by the CONTRACTOR under this Contract, and as identified in a written notice relating to the Work.

**1.02 Order for Service.** The CONTRACTOR shall provide services under this Contract when authorized in writing by the COUNCIL, and as detailed in such writing. Each request for services shall be in the form of a written Order for Service issued by the COUNCIL and specifying the scope of services (including Deliverables) for the particular Order for Service, the time frame for completion, the maximum amount authorized for services under the Order for

Service, and any other special requirements. CONTRACTOR's work under any Order for Service is subject to all the terms and conditions of this Contract.

## **II. COMPENSATION BASIS; MAXIMUM TOTAL COMPENSATION**

**2.01 Compensation Basis.** For the services to be performed under Article I, the COUNCIL will pay CONTRACTOR on the basis of the fee schedule attached as Exhibit B ("Contractor Fee Schedule").

**2.02 Maximum Total Compensation.** The maximum amount for all services and associated equipment and materials provided under any Order for Service issued pursuant to this Contract shall not exceed the amount authorized in the Order for Service. The CONTRACTOR shall not exceed the amount authorized unless the CONTRACTOR receives a written adjustment of the Order for Service amount from the COUNCIL.

In addition, the maximum total compensation payable to the CONTRACTOR by the COUNCIL for all services performed under all Orders for Service issued pursuant to this Contract, including all expenses incurred shall not exceed the amount of \$\_\_\_\_\_.

Travel expenses must be actual, reasonable and incurred specifically for the Work. Reimbursable expenses shall be paid at cost with no markup by the CONTRACTOR. Only project-related travel costs as provided for under FAR, 48, C.F.R. Subpart 31.2 shall be considered for reimbursement. Reimbursement for privately owned vehicle mileage shall not exceed the applicable U.S. General Services Administration (GSA) rate. Reimbursement for lodging, meals and incidental expenses shall not exceed the applicable GSA per diem rate. The CONTRACTOR shall coordinate with the COUNCIL to schedule flights as far in advance as possible to reduce the expenses incurred. If the CONTRACTOR travels to the Minneapolis-Saint Paul area to provide services or support to other CONTRACTOR customers, the COUNCIL shall be responsible only for a proportionate share of the travel and travel-related expenses.

## **III. METHOD OF PAYMENT**

The CONTRACTOR shall submit to the COUNCIL a reasonably detailed statement of services rendered under this Contract on or before the 20th day of each month following the month in which the services are rendered. Each statement will set forth the following information:

- a. The Contract number.
- b. A list of each item of service on the Fee Schedule which was performed, the date or dates the item of service was performed, and the cost for each item of service in accordance with the Fee Schedule.
- c. The total sum chargeable for the month against the Contract.
- d. Milestone or percentage of whole payments cannot exceed actual costs

On verification and acceptance by the COUNCIL's Contract Manager of each invoice and status report, the COUNCIL shall pay the CONTRACTOR the invoiced amount.

Upon completion of the Contract Work, the CONTRACTOR shall submit to the COUNCIL a final status report, a final invoice, and a request for payment of the sums then owing. The final invoice must include the following certification, signed by an authorized representative of the CONTRACTOR:

The undersigned represents that payment of this request for payment constitutes completion of the services agreed upon and acknowledges that the undersigned shall reimburse the COUNCIL for any payments due the COUNCIL as a result of an audit and any amount due the COUNCIL resulting from Contract adjustments.

The COUNCIL shall pay this final invoice upon the COUNCIL's approval and acknowledgment of satisfactory completion of Contract work.

CONTRACTOR shall not receive payment for work found by the COUNCIL to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

#### **IV. PROJECT MANAGER**

The COUNCIL's Project Manager for the purposes of administration of this Contract is \_\_\_\_\_, or such other person as may be designated in writing by the COUNCIL.

However, nothing in this Contract shall be deemed to authorize the Project Manager to execute amendments to this Contract on behalf of the COUNCIL.

#### **V. [RESERVED]**

#### **VI. [RESERVED]**

#### **VII. TIME OF PERFORMANCE; TERMINATION OF CONTRACT**

**7.01 Time of Performance.** The term of this Contract shall commence on the date this Contract is executed and shall terminate on \_\_\_\_\_, unless otherwise terminated as provided in this Contract.

**7.02 Commencement of Services.** The Services under this Contract are to commence when authorized in writing by the COUNCIL and are to be completed in accordance with the schedule specified in Exhibit A, or as approved in writing by the COUNCIL. CONTRACTOR shall not commence any work under this Contract until receiving the written authorization.

**7.03 Termination of Contract.** The COUNCIL shall have the right to terminate this Contract at any time and for any reason by submitting written notice of termination to the CONTRACTOR at least thirty (30) calendar days prior to the specified effective date of termination. In such event, all finished and unfinished Deliverables prepared by the CONTRACTOR and its subcontractors under this Contract shall become the property of the COUNCIL, and the CONTRACTOR shall be entitled to compensation for all authorized services satisfactorily completed under this Contract prior to the date of termination, in accordance with the compensation terms specified in Article II. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the COUNCIL for damages sustained by the COUNCIL by virtue of any breach of this Contract by the CONTRACTOR. The COUNCIL may withhold any payment to the CONTRACTOR until such time as the exact amount of damages due the COUNCIL from CONTRACTOR is determined.

In addition, the COUNCIL shall have the right to terminate any particular Order for Service issued pursuant to this Contract at any time and for any reason in the same manner as used for termination of the Contract. In such event, all finished and unfinished Deliverable prepared by the CONTRACTOR and its subcontractors under the Order for Service shall become the property of the COUNCIL, and the CONTRACTOR shall be entitled to compensation for all

authorized services satisfactorily performed and disbursements made under the Order for Service prior to the date of termination.

**7.04 Option to Extend.** The COUNCIL reserves the right to exercise an option to extend the term of this Contract up to four additional one-year periods after the termination date in section 7.01 by providing the CONTRACTOR written notice prior to the expiration date. If the COUNCIL exercises the option to extend the Contract such extension shall be upon the same terms and conditions set forth in this contract.

## **VIII. ACCOUNTING; RECORDS-KEEPING; AUDIT REQUIREMENTS**

**8.01 Records-Keeping.** The CONTRACTOR shall maintain books, records, documents and other evidence directly pertinent to performance of the work under this Contract in accordance with generally accepted accounting principles and practices, including payrolls, time records, invoices, receipts, and vouchers. The CONTRACTOR shall also maintain the financial information and data used in preparation or support of the cost submission for any negotiated Contract amendment or change order and provide printed or copied documentation to the COUNCIL as requested. These books, records, documents, and data shall be retained for at least six (6) years after the term of the Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the CONTRACTOR agrees to maintain them until the COUNCIL and any of its duly authorized representatives have disposed of the litigation or claims.

**8.02 Audits.** As required by Minnesota Statutes, section 16C.05, subdivision 5, the records, books, documents, and accounting procedures and practices of the CONTRACTOR and of any subcontractor relating to work performed pursuant to this Contract shall be subject to audit and examination by the COUNCIL and the Legislative Auditor or State Auditor. The CONTRACTOR and any subcontractor shall permit the COUNCIL or its designee to inspect, copy, and audit its accounts, records, and business documents at any time during regular business hours, as they may relate to the performance under this Contract. Audits conducted by the COUNCIL under this provision shall be in accordance with generally accepted auditing standards. Financial adjustments resulting from any audit by the COUNCIL shall be paid in full within thirty (30) days of the CONTRACTOR's receipt of audit.

## **IX. INDEMNIFICATION; INSURANCE REQUIREMENTS**

**9.01 Indemnification.** The CONTRACTOR agrees that it will save and protect, hold harmless, indemnify, and defend the COUNCIL and its members, agents, and employees against any and all claims, expenses (including attorneys' fees), losses, damages, or lawsuits arising out of or resulting from, whether in whole or part, the CONTRACTOR's performance of the Contract, including acts or omissions of its employees, subcontractors, representatives, or agents.

**9.02 Insurance Requirements.** The CONTRACTOR shall procure and maintain for the term of the Contract, or for longer periods of time as may be required elsewhere in this Contract, insurance against claims, which may in any manner arise out of or result from acts or omissions in performing work under this agreement, by the CONTRACTOR or its employees, subcontractors, suppliers, representatives or agents. Any deductibles or self-insured retentions, which must be declared and approved by the COUNCIL, are the sole responsibility of CONTRACTOR.

**9.03 Minimum Scope of Insurance.** CONTRACTOR shall procure and maintain the following insurance:

1. Commercial General Liability occurrence form (ISO CG 00 01 or equivalent) and, if necessary, an Umbrella Liability policy on a following-form basis, providing coverage for, but not limited to, liability arising from premises, operations, independent contractors, products-completed operations (if any work results in a completed operations hazard), personal injury and advertising injury, and contractual liability assumed under Section 9.01 of this Contract. Policy must be maintained for a period of two years after Final Acceptance of the Work;
2. Business automobile coverage, ISO CA 00 01, 1997 or later edition, and if necessary an Umbrella Liability policy on a following-form basis, for liability arising out of the operation, maintenance or use of any automobile, whether owned, non-owned, rented or leased. If hauling pollutants, pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached;
3. Statutory Workers' Compensation and Employers' Liability coverage, including, other states coverage and, if applicable, Maritime and/or United States Longshoremen and Harbor Workers Act Coverage. If CONTRACTOR is a sole proprietor the following shall be provided:
  - a. Documentation that CONTRACTOR has voluntarily chosen not to purchase workers' compensation coverage; and/or
  - b. Evidence of a personal health and disability insurance coverage;
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession.

If insurance is written on a claims-made basis, any Retroactive Date shall be prior to CONTRACTOR'S first act of performance under the agreement. Further, CONTRACTOR shall not change the form of the policy from a claims-made without express written consent from the COUNCIL. Policy shall also provide Extended Reporting Period of not less than five years.
5. Contractor's Pollution Liability (CPL). Required for any work involving excavation or boring. If required, coverage shall include bodily injury, property damage, including loss of use of property, clean-up costs, defense (including costs and expenses incurred in the investigation, defense, or settlement of claims), products and/or completed operations, and contractual liability. Coverage shall also be provided for transport of waste and non-owned disposal sites, if the CONTRACTOR is disposing of waste, the following shall be provided:
  - a. The COUNCIL shall also be listed as additional insured on such policy.
  - b. If CPL policy is written on a claims-made basis, then retroactive date must precede the earlier of either i.) the effective date of this contract, or ii.) the date work begins, and shall provide an extended reporting period

If the CONTRACTOR utilizes a sub-contractor for any excavation or boring, CONTRACTOR may satisfy this CPL requirement by requiring its sub-contractor to provide such coverage, provided that the coverage and limits be no less than required in this section.

**9.04 Limits of Insurance:** The CONTRACTOR shall maintain the following limits.

1. Commercial General Liability (CGL) with a limit of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$1,000,000 products/completed operations aggregate. The general aggregate limit shall apply separately to this Contract.
2. Automobile Liability with a limit not less than \$1,000,000 each Accident.
3. Workers' Compensation to be statutory. Employer's Liability with a limit not less than \$500,000 each person per accident, \$500,000 each employee by disease, and \$500,000 all employees by disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession with a limit not less than \$3,000,000 per claim/occurrence.
5. Contractor's Pollution Liability (CPL), if applicable, with a limit not less than \$5,000,000 each claim.

#### **9.05 Other Insurance Provisions.**

1. The COUNCIL, its members, agents, and employees added as additional insureds under the CONTRACTOR'S CGL coverage, and under the commercial umbrella, if any, utilizing ISO CG 20 10 07 04 and ISO CG 20 37 07 04 (if any work results in a completed operations hazard), or their equivalent.
2. The COUNCIL, its members, agents, and employees must be added as an Insured under the CONTRACTOR'S Business Automobile policy, and under the umbrella, if any, utilizing ISO CA 20 48, or its equivalent.
3. With the exception of Workers' Compensation and Professional Liability, the CONTRACTOR's insurance coverage shall be primary and non-contributory as respects the COUNCIL, its members, agents and employees.
4. The CONTRACTOR shall be responsible for obtaining separate certificates and endorsements for each subcontractor. CONTRACTOR shall determine the appropriate level of insurance coverage and limits from its subcontractors.
5. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed, except after thirty days' prior written notice (ten days notice for cancellation due to non-payment of premium), has been given to the COUNCIL at the following address:

**Metropolitan Council  
Attn:  
390 North Robert Street  
Saint Paul, MN 55101**

In addition to notifying its insurer(s) in accordance with the policy, CONTRACTOR shall provide prompt written notice (to the address above) as soon as reasonably possible of any accident or loss relating to work performed on behalf of the COUNCIL.

6. With the exception of Professional Liability, each policy shall be endorsed to state that the insurer agrees to waive all rights of subrogation against the COUNCIL, its members, agents and employees, for losses arising out of the performance of this Contract.
7. Insurance is to be placed with insurers with Best's rating of no less than A:VII.

**9.06 Verification of Coverage.** The CONTRACTOR shall furnish the COUNCIL with certificates of insurance and with copies of endorsements evidencing coverage required by this article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The COUNCIL is not obligated to review certificates or other evidence of insurance, or to advise the CONTRACTOR of any deficiencies in such documents, and receipt thereof will not relieve the CONTRACTOR from,

nor be deemed a waiver of, the COUNCIL'S right to enforce, the terms of the CONTRACTOR'S obligations hereunder. The COUNCIL will have the right to examine any policy required by this Contract. All certificates and endorsements are to be received by the COUNCIL before work commences.

**9.07 CONTRACTOR's Responsibility for Insurance.** The COUNCIL does not represent in any way that the insurance specified in this Contract, whether in scope of coverage or limits, is adequate or sufficient to protect the CONTRACTOR's business or interests. It is the sole responsibility of the CONTRACTOR to determine the need for and to procure additional coverage that may be needed in connection with this Contract. Furthermore, the procuring of such required policy or policies of insurance shall not be construed to limit the CONTRACTOR's liability under this Contract nor to fulfill the indemnification provisions and requirements of this Contract

**9.08 Non-Waiver of Municipal Immunity and Limits.** Nothing in this Contract shall be construed to waive the municipal immunities or liability limits provided in the Minnesota Municipal Tort Claims Act or other applicable state or federal laws.

## **X. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

**10.01 Prohibition on Discriminatory Practices.** The CONTRACTOR shall take affirmative action to ensure that applicants are selected, and that employees are treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability or age.

**10.02 Affirmative Action.** The provisions of this Section 10.02 apply only if the amount of this Contract (including the value of any amendments thereto) exceeds one hundred thousand dollars (--\$100,000).

**A. General Requirements.** The requirements of Minnesota Statutes, section 473.144, and Minnesota Rules, parts 5000.3400 to 5000.3600, regarding affirmative action plans, are incorporated in this Contract by reference.

### **B. Disabled Individuals Affirmative Action.**

1. The CONTRACTOR must not discriminate against any employee or applicant for employment because of a physical, sensory, or mental disability in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical, sensory, or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The CONTRACTOR agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
3. In the event of the CONTRACTOR's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

4. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form prescribed by the Commissioner of the Minnesota Department of Human Rights. Such notices must state the CONTRACTOR's obligation under law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
5. The CONTRACTOR must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONTRACTOR is bound by the terms of Minnesota Statutes, section 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically, sensory, and mentally disabled persons.

**10.03 Freedom from Sexual Harassment.** The COUNCIL has a policy which establishes a work environment for COUNCIL employees free of sexual harassment of any form, whether mental or physical. The CONTRACTOR shall require its employees, subcontractors, and all other persons providing materials and services for the Work, to conform to this Policy as their actions may relate to COUNCIL employees.

**10.04 Drug Free/Graffiti Free Environment.** The CONTRACTOR shall not permit the possession or use of intoxicating liquors or illegal drugs by the CONTRACTOR, its subcontractors, or their agents or employees upon any COUNCIL facility or property.

The COUNCIL prohibits the display of all graffiti of any kind, plus pictures and other materials of any kind, containing racial or ethnic slurs, sexually explicit material, or general foul language on all COUNCIL property and facilities. The CONTRACTOR shall require its employees, subcontractors, and all other persons providing materials and services for the Work, to conform to this prohibition of display of graffiti, pictures, and other materials on or within CONTRACTOR's, subcontractors', and other persons' equipment, facilities, and vehicles which are located upon, brought onto, or used on COUNCIL property and facilities.

## **XI. AMENDMENTS**

The terms of this Contract may be changed by mutual agreement of the parties. Such changes shall be effective only on the execution of written amendment(s) signed by the COUNCIL and the CONTRACTOR.

## **XII. ASSIGNMENT; SUBCONTRACTS**

**12.01 Assignment.** Except as provided in this part, the CONTRACTOR shall perform with its own organization the Work provided for under this Contract and shall not assign, subcontract, sublet, or transfer any of the Work without receiving the express written consent of the COUNCIL.

**12.02 Suspended or Debarred Subcontractors.** The CONTRACTOR shall not make awards to subcontractors who have been suspended or debarred by the State of Minnesota.

**12.03 Names of Subcontractors.** The CONTRACTOR shall furnish, in writing, the names of all subcontractors, and their proposed Scope of Work to be used to complete the Work. The COUNCIL shall in writing within two (2) weeks of receipt of subcontractor information, advise the CONTRACTOR of the COUNCIL's acceptance or objection to proposed subcontractor(s). The CONTRACTOR's submission shall contain the CONTRACTOR's express representation that none of the listed subcontractors have been suspended or debarred from award of contracts or



subcontracts under state or local law. The CONTRACTOR shall not contract with any subcontractor to whom the COUNCIL has made objection.

**12.04 Requirements of Subcontractor Contracts.** All subcontracts between the CONTRACTOR and its subcontractors shall require each subcontractor to be bound to the CONTRACTOR by the terms of this Contract, and to assume toward the CONTRACTOR all the obligations and responsibilities which the CONTRACTOR, by this Contract, assumes toward the COUNCIL.

**12.05 Subcontract Requirements.** All subcontracts shall expressly state that incorporation by reference of specific terms and conditions of this Contract shall not be deemed to create any contractual relationship between the COUNCIL and any subcontractor, and that subcontractors are not third-party beneficiaries of this Contract.

#### **12.06 [RESERVED]**

**12.07 Prompt Payment of Subcontractors.** Consistent with Minnesota Statutes, section 471.425, if any part of the Work is subcontracted, the CONTRACTOR shall pay any such subcontractor within ten (10) days of the CONTRACTOR's receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The CONTRACTOR shall not, by reason of said payments, be relieved from responsibility for that portion of the Work done by the subcontractor and shall be responsible for the entire Work until the same is finally accepted by the COUNCIL.

The CONTRACTOR shall pay interest at the rate of one and one half percent (1½%) per month or part thereof to a subcontractor on any undisputed amount not paid in accordance with the preceding paragraph. The minimum monthly interest payment for an unpaid balance of one hundred dollars (\$100) or more is ten dollars (\$10). For an unpaid balance of less than one hundred dollars (\$100), the CONTRACTOR shall pay the actual interest due to the subcontractor.

In accordance with Minnesota Statutes, section 471.425, a subcontractor who prevails in a civil action to collect interest penalties from the CONTRACTOR must be awarded its costs and disbursements, including attorney fees, incurred in bringing the action. Execution of this Contract constitutes the CONTRACTOR's consent to such award in the event a subcontractor prevails in such an action.

### **XIII. RETENTION AND REUSE OF DOCUMENTS**

**13.01 Deliverables to be Kept Confidential.** All Deliverables along with such working papers, calculations, notes, and other information used to produce the Deliverables shall be kept as confidential and shall not be made available to any individual or organization by the CONTRACTOR, its subcontractors, or their agents or employees without the prior written approval of the COUNCIL.

**13.02 Documents Property of COUNCIL.** All documents and records coming into the possession of the CONTRACTOR relating to the Work shall be provided to the COUNCIL by the CONTRACTOR. Deliverables shall become the property of the COUNCIL. The CONTRACTOR is not, however, required to provide the COUNCIL with the CONTRACTOR's correspondence file and original working papers, calculations, and notes developed as a result of the Work. The CONTRACTOR shall make available to the COUNCIL copies of the CONTRACTOR's correspondence and original working papers, calculations, and notes relating to the Work upon request of the COUNCIL.

**13.03 Format of Deliverables.** Deliverables shall be prepared in Standard English (US) units and language in an accessible format. An accessible document is useable by everyone, including the blind and individuals with low vision. Documents must follow a logical order or a group of rules and procedures designed to ensure that persons using various assistive technology devices can access the information contained in the document. Upon completion or termination of this Contract, the CONTRACTOR shall provide the COUNCIL with a copy, in electronic form, of all Deliverables, reports, studies and other documents developed by the CONTRACTOR in connection with the matters which are the subject of this Contract. Such materials shall be provided in an electronic format, accessible and compatible with the following, as appropriate:

- Word processing files: Microsoft® 2003 or 2007
- Spreadsheet files: Microsoft® 2003 or 2007
- Database files: Microsoft® 2003 or 2007
- Drawing files: ACAD® in conformance with the MCES drafting guidelines
- Other formats: As agreed to in advance by the COUNCIL

**13.04 Deliverables Not Subject to Copyright.** COUNCIL is hereby granted a right and license to any copyright that may subsist in or to the Deliverables to make, have made, reproduce, have reproduced, distribute, make derivative works from, and otherwise use the Deliverables produced under this Contract for COUNCIL purposes, all without notice or accounting to the CONTRACTOR, provided COUNCIL appropriately acknowledges the contributions of creators in developing the Deliverable.

#### **XIV. GENERAL PROVISIONS**

**14.01 Legal Compliance.** This Contract shall be governed by and construed according to the laws of the State of Minnesota. Venue for all legal proceedings arising out of this Contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota. The CONTRACTOR shall comply with all applicable local, state or federal laws or regulations. The CONTRACTOR agrees that the most recent version of these shall govern at any given time. The CONTRACTOR shall exert its best efforts to give all notices required by law and to avoid violations of the law in connection with services provided under this Contract. The CONTRACTOR shall monitor its agents, subcontractors, and employees for the purposes of ensuring compliance with all applicable laws. If any change in circumstances or law will affect the CONTRACTOR's performance under this Contract, the CONTRACTOR shall notify the COUNCIL's Project Manager of the change in circumstances or law at the CONTRACTOR's earliest opportunity.

**14.02 Independent Contractor Status.** The CONTRACTOR, in performance of Work under this Contract, operates as an independent contractor and covenants and agrees that it shall conduct itself consistent with such status, that it shall neither hold itself out as nor claim to be an officer or employee of the COUNCIL by any reason of this Contract, and that it shall not by reason of this Contract make any claim or demand nor apply for any right or privilege applicable to an officer or employee of the COUNCIL, including, but not limited to, workers' compensation coverage, unemployment or reemployment insurance benefits, Social Security coverage, or retirement membership or credit. The CONTRACTOR assumes sole responsibility for payment of all taxes required by federal and state law, including income, employment, property, or franchise taxes.

The CONTRACTOR shall be responsible for the satisfactory work performance of all its employees or subcontractors in performing the Work described in this Contract. Any person employed by the

CONTRACTOR to perform services under this Contract shall not be considered an employee of the COUNCIL for any purpose. The CONTRACTOR shall be responsible for payment of all employee wages and benefits and the costs of any subcontractor. The CONTRACTOR shall comply with the requirements of employee liability, workers' compensation, unemployment or reemployment insurance, and Social Security, as applicable to its operations. The CONTRACTOR shall have in effect personnel policies that conform to all applicable federal, state and local laws. The CONTRACTOR shall maintain at all times a current list of personnel assigned to perform Work with corresponding documentation of any current licenses or certifications each employee must legally have to carry out the employee's assigned duties.

#### **14.03 [RESERVED]**

**14.04 Dispute Resolution.** Claims by the CONTRACTOR disputing the meaning and intent of this Contract or arising from performance of this Contract shall be referred in writing to the COUNCIL's Project Manager for a written decision. The COUNCIL's Project Manager shall respond to the CONTRACTOR in writing with a decision within ten (10) calendar days following receipt of the CONTRACTOR's claim by the COUNCIL's Project Manager.

If the CONTRACTOR disagrees with any determination or decision of the COUNCIL's Project Manager, the CONTRACTOR shall, within fifteen (15) calendar days of the date of such determination or decision, appeal the determination or decision in writing to the \_\_\_\_\_, who shall serve as the COUNCIL's Dispute Official. Such written appeal shall include all documents and other information necessary to substantiate the dispute or claim. The Dispute Official shall review the dispute or claim and transmit a decision in writing to the CONTRACTOR within thirty (30) calendar days from the receipt of the dispute or claim. Failure of the CONTRACTOR to appeal the decision or determination of the COUNCIL's Project Manager within the fifteen (15) calendar day period shall constitute a waiver of the CONTRACTOR's right to assert thereafter any claim resulting from such determination or decision. Submission of a dispute or claim to the Dispute Official shall be a condition precedent to any litigation under this Contract.

Pending final decision of a dispute under this article, the CONTRACTOR and the COUNCIL shall proceed diligently with the performance of the Contract and the question or claim shall be temporarily resolved in accordance with the decision of the Dispute Official, until final resolution of the question or claim. Failure by the CONTRACTOR to comply precisely with the time deadlines under this paragraph as to any claim shall operate as a release of that claim and a presumption of prejudice to the COUNCIL.

**14.05 Data Practices.** Consistent with Minnesota Statutes, section 13.05, subdivision 6, if any data on individuals is made available to the CONTRACTOR by the COUNCIL pursuant to this Contract, the CONTRACTOR shall administer and maintain any such data in accordance with Minnesota Statutes, Chapter 13 (the "Minnesota Government Data Practices Act"), and any other statutory provisions applicable to the data. If and to the extent that Minnesota Statutes, section 13.05, subdivision 11, is applicable to this Contract, then: a) all of the data created, collected, received, stored, used, maintained, or disseminated by the CONTRACTOR in performing this Contract are subject to the requirements of the Minnesota Government Data Practices Act; b) the CONTRACTOR must comply with those requirements as if it were a government entity; and c) the remedies in Minnesota Statutes, section 13.08 apply to the CONTRACTOR.

In the event the CONTRACTOR receives a request to release data referred to in this section, the CONTRACTOR must immediately notify the COUNCIL. The COUNCIL shall give the CONTRACTOR instructions concerning the release of the data to the requesting party before the data is released.

**14.06 Licenses and Permits.** The CONTRACTOR and any subcontractors shall procure and keep current any and all licenses, permits, or certificates which are or may be required by properly constituted authorities for the performance of the services under this Contract.

**14.07 Complete Contract.** This Contract, including exhibits and other documents incorporated in this Contract or made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the Contract between the CONTRACTOR and the COUNCIL. This Contract supersedes all prior representations, understandings, and communications. The validity in whole or in part of any term or condition of the Contract shall not affect the validity of other terms or conditions. The COUNCIL's failure to insist in any one (1) or more instances upon the CONTRACTOR's performance of any term or condition of the Contract shall not be construed as a waiver or relinquishment of the COUNCIL's right to such performance, or to future performance, of such term or condition by the CONTRACTOR, and the CONTRACTOR's obligation for performance of that term or condition shall continue in full force and effect.

**14.08 Continuing Obligations.** The CONTRACTOR acknowledges that the provisions of this Contract impose continuing obligations on the CONTRACTOR which extend and are effective notwithstanding the conclusion of the term of this Contract.

**14.09 Workers Compensation and Tax Withholding Representations.** In accordance with Minnesota Statutes, section 176.182, CONTRACTOR represents that it is in compliance with the workers' compensation coverage requirements of Minnesota Statutes, section 176.181, subdivision 2.

In accordance with Minnesota Statutes, section 270C.66, CONTRACTOR represents that it and all its subcontractors under this Contract, if any, are in compliance with the tax withholding on wages requirements of Minnesota Statutes, section 290.92.

**14.10 Commissioner of Health Licensing, Certifications, and Rules.** All asbestos-related work or asbestos management activity, if any, performed by the CONTRACTOR under this Contract shall be performed:

1. by persons or subcontractors licensed or certified (for the types of such work or activity to be carried out) by the Commissioner of Health under the Minnesota Asbestos Abatement Act, Minnesota Statutes, sections 326.70 to 326.81; and
2. in accordance with rules prescribed by the Commissioner of Health related to asbestos abatement and asbestos management activity.

Prior to commencing any such Work, the CONTRACTOR shall provide to the COUNCIL copies of currently valid licenses or certificates (for all the types of asbestos-related work or asbestos management activities to be carried out under this Contract) issued by the Commissioner of Health under the Minnesota Asbestos Abatement Act.

#### **14.11 COVID-19 Vaccination/Testing Requirements.**

##### **1. Definitions.**

###### **a. Covered Settings means:**

- i. Indoor settings where individuals have regular, in-person contact with Metropolitan Council employees or members of the public; or
- ii. Outdoor settings with substantial or regular in-person, non-socially distanced contact with Metropolitan Council employees or members of the public.

- b. *Covered Individuals* means CONTRACTOR's employees or subcontractors who are performing contracted work in Covered Settings
- c. *Testing* means using any Covid-19 test that is FDA authorized including through an emergency use authorization.

**2. Applicability.** This section applies to Covered Individuals.

**3. Requirements.** In accordance with Metropolitan Council's Emergency Procedure C1c COVID-19 Vaccine and Testing Requirement Procedure, Covered Individuals must be fully vaccinated against COVID-19 as defined in the procedure or submit to testing as defined in this Section at least once a week.

The current version of the Council's Covid-19 Vaccine and Testing Emergency Procedure is attached as Exhibit C. This procedure is subject to change. CONTRACTOR agrees that the most recent version of the procedure applies at any particular time. The most recent version of the procedure may be found at [C1c COVID-19 Vaccine and Testing Requirement Procedure \(metrocouncil.org\)](https://www.metrocouncil.org/C1c_COVID-19_Vaccine_and_Testing_Requirement_Procedure).

**4. Compliance.** CONTRACTOR is responsible for the following:

1. Tracking and maintaining proof of vaccination status for vaccinated Covered Individuals;
  2. Ensuring Covered Individuals who are not vaccinated are tested at least once a week;
  3. Monitoring test results and ensuring that Covered Individuals with positive test results do not access Covered Settings until the Covered Individual has been medically cleared; and
  4. Ensuring its Covered Individuals do not access Covered Settings if the Covered Individual is not in compliance with Section 3.
- 5. Reporting.** CONTRACTOR must maintain a list of all Covered Individuals who have completed testing or vaccination and may access Covered Facilities and provide it to the Metropolitan Council if requested.
- 6. Term.** This Section will remain in effect until the earlier of the termination date of this Contract or the Council rescinding its Covid-19 Vaccine and Testing Emergency Procedure.

## **XV. CONFLICTS OF INTEREST**

### **15.01 Definitions.**

An "organizational conflict of interest" occurs when any of the following circumstances arise:

- a. Lack of Impartiality or Impaired Objectivity. When the CONTRACTOR is unable, or potentially unable, to provide impartial or objective assistance or advice to the COUNCIL due to other activities, relationships, contracts, or circumstances.
- b. Unequal Access to Information. The CONTRACTOR has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
- c. Biased Ground Rules. During the conduct of an earlier procurement, the CONTRACTOR has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.

A "personal conflict of interest" exists when: (1) a COUNCIL employee or officer, or an employee or officer of any agency interested in this Contract, and any people closely related to such employees or officers has a financial interest in the CONTRACTOR's business or this Contract; or (2) a person associated with the CONTRACTOR has an interest which would conflict in any manner or degree with the CONTRACTOR's performance of this Contract.

### **15.02 Certification.**

The CONTRACTOR certifies that, to the best of its knowledge and belief, and except as disclosed in its proposal, there are no relevant facts or circumstances which could give rise to a personal or organizational conflict of interest in connection with this Contract. The CONTRACTOR further certifies that: (1) no one except the CONTRACTOR's bona fide employees or designated agents or representatives has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and (2) the CONTRACTOR and its agents, employees, and representatives have not offered or given, and will not offer or give any gratuities, gifts, favors, entertainment, or offers of employment to any official, member, or employee of the COUNCIL or other governmental agency to secure this Contract or to secure favorable treatment with respect to the awarding or amending, or the making or any determination with respect to the performance of this Contract.

**15.03 Conflicts During the Term.** If the CONTRACTOR learns of facts or circumstances which could give rise to a conflict of interest during the term of this Contract, the CONTRACTOR will immediately notify the COUNCIL in writing. The notice must include a full disclosure and the CONTRACTOR's proposal for avoiding, mitigating, or neutralizing the conflict. The COUNCIL retains the right to take other appropriate action to eliminate the organizational conflict of interest and the CONTRACTOR shall cooperate as reasonably requested by the Council. If, in the Council's sole discretion, the conflict of interest cannot be adequately avoided, neutralized, or mitigated the Council may cancel this Contract. If the Council determines, in its sole discretion, that the CONTRACTOR was aware of any conflict of interest described in this section prior to award and execution of this Contract, and failed to disclose it, the COUNCIL may terminate this Contract for default.

**15.04 Flow Down.** The provisions of this clause must be included in all subcontracts for work to be performed under this Contract, with the terms "Contract," "CONTRACTOR" and "COUNCIL" modified appropriately to preserve the COUNCIL's rights.

**XVI. [RESERVED]**

**IN WITNESS WHEREOF**, the parties have caused this Contract to be executed by their duly authorized officers on the dates set forth below.

**METROPOLITAN COUNCIL**

By: \_\_\_\_\_

(Please print name legibly below)

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A TO CONTRACT**

### **BASIC SERVICES**

*This Exhibit is intentionally left blank in the RFP. This document will be developed based on the Scope of Work and the successful Proposer's proposal, and it will be inserted as Exhibit A.*

SAMPLE



**EXHIBIT B TO CONTRACT**  
**CONTRACTOR FEE SCHEDULE**

*This Exhibit is intentionally left blank in the RFP*

SAMPLE

## EXHIBIT C TO CONTRACT



### EMERGENCY PROCEDURE COVID-19 Vaccine and Testing Requirement Procedure C1c

**Category:** Human Resources

**Business Unit Responsible:** RA: Human Resources

**Procedure Owner & Contact:** Marcy Syman, Director of Human Resources

**Synopsis:** A procedure for employees to provide proof of vaccination against the COVID-19 virus or submit to weekly COVID-19 testing.

### GOVERNING POLICY

- [HR 9-1 Safety and Health Policy](#)

### PROCEDURE

To protect the health and safety of our employees and customers from the threat of COVID-19, employees (including interns) who are assigned to work at the workplace (rather than at-home telework), are assigned to provide Council services outside of their home, need to access the workplace for more than 10 minutes, or otherwise provide Council services outside of their home, must provide proof of their COVID-19 vaccination status. Any employee who does not submit proof of full COVID-19 vaccination must complete mandatory COVID-19 testing and must continue testing at least weekly.

This procedure is effective Monday October 11, 2021, and is subject to change at the Council's discretion, including based on public health guidance. Employees may be subject to additional requirements under division policy or state or federal law.

### PURPOSE & SCOPE

- The Metropolitan Council is committed to preventing the transmission of COVID-19.
- This procedure applies to all employees of the Metropolitan Council who are assigned to work at the workplace for more than 10 minutes, who need to access the workplace for more than 10 minutes, or who otherwise provide Council services outside of their home.
- For the purposes of this procedure, the "workplace" is any location outside of an employee's home where Council work is performed, or any location visited by the employee for more than 10 minutes while on work time.
- This procedure does not apply to employees who have an approved telework arrangement and solely telework from home, do not access the workplace for more than 10 minutes, and do not otherwise provide Council services outside the employee's home.

- The Council may apply this procedure to onsite contractors. For purposes of this procedure “onsite contractor” is any contractor, vendor, or other person performing services on behalf of the Council who is required to perform job duties onsite at a Council facility for more than 10 minutes or in the community. The Council will notify contractors of this procedure and the timeline for any implementation.

---

## PROVIDING PROOF OF VACCINATION STATUS

1. Council employees who are assigned to work at the workplace (rather than at-home telework), need to access the workplace for more than 10 minutes, or otherwise provide Council services outside their home, must submit to Human Resources proof of being fully vaccinated.
  - A. Employees are considered fully vaccinated against COVID-19:
    - i. 2 weeks after their second dose in a 2-dose COVID-19 vaccination series approved by the U.S. Food and Drug Administration (“FDA”) or the World Health Organization (“WHO”); or
    - ii. 2 weeks after a single-dose COVID-19 vaccine approved by the FDA or WHO.
  - B. Acceptable proof of vaccination status is:
    - i. The record of immunization from a health care provider or pharmacy;
    - ii. A copy of the COVID-19 Vaccination Record Card;
    - iii. A copy of medical records documenting the vaccination;
    - iv. A copy of immunization records from a public health, state, or tribal immunization information system;
    - v. A copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s);
    - vi. Or, if an employee is unable to produce any of the above types of proof, they may submit a signed and dated attestation [form found here](#).
  - C. Employees who are not fully vaccinated or who do not provide proof that they are fully vaccinated will be considered unvaccinated for the purposes of this policy.
2. Employees will submit a copy of their proof of vaccination via Employee Self Service (ESS). Employees will add information to the ESS page and upload a scanned or photographic image of their vaccination card that clearly shows the criteria from 1(B) above, and Human Resources staff will review the document for eligibility. If the proof is not legible or verifiable in the form presented, the employees may be asked to present the original document.
3. Once approved, employees will be notified that they are considered fully vaccinated for the purposes of this procedure and will be allowed to report to the workplace.
4. The documentation collected for the purposes of this policy will be treated as confidential medical records under applicable law. Information regarding whether an employee has shown proof of full vaccination, and information on whether the employee must submit to mandatory COVID-19 testing, will be provided to Human Resources staff, Council staff with a business need to know, and others authorized by law.
5. Vaccinated employees who test positive outside of work are subject to the division’s procedures regarding COVID-19 absence management. Employees with positive test results must contact

their supervisor, must isolate according to current MDH and CDC Guidelines, and must not report to the workplace. The employee's supervisor and/or manager will determine whether the employee's job duties can be performed through telework. Employees may not return to the workplace until they either (a) receive negative NAAT test after having tested positive on an antigen test, (b) they meet the criteria to return under CDC "Isolation Guidance," or (c) receive a return-to-work recommendation from a licensed healthcare provider.

6. Employees who telework and who are not required to work in the workplace or provide Council services outside of their home are not subject to this procedure. However, in the event an employee has a business need to enter the workplace, they must comply with this procedure, including providing proof of vaccination, submitting a COVID-19 test, or reporting a positive COVID-19 diagnosis.
7. New employees hired on or after October 1, 2021 will be notified of this procedure and the requirement to adhere to it.
8. Employees may submit proof of vaccination at any time.

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## COVID-19 TESTING PROCEDURE FOR UNVACCINATED COUNCIL EMPLOYEES

Unvaccinated employees must undergo mandatory testing for COVID-19 at least weekly. COVID-19 tests and results must be conducted and handled in compliance with all applicable rules and laws. Due to the pandemic and employees' job-related interaction with others, COVID-19 testing is job-related and consistent with business necessity.

An employee may submit proof of being fully vaccinated at any time, according to the procedures in *I. Providing Proof of Vaccination Status* above.

1. Employees will be provided COVID-19 tests from Council-approved vendors.
2. Testing may occur at home, at the workplace (if the division has appropriate facilities), or at a testing site.
  - A. To take a test at-home or at a workplace facility (if available), the employee will contact their supervisor or designee for a test kit and will follow the vendor's instructions for submitting the test. The vendor will update the Council, the employee, and local public health official (if applicable) about the status and results of the test.
  - B. To take a test at a testing site, the employee will contact the vendor either online or by phone, schedule the appointment, and follow the vendor's instructions for reporting to the testing site and submitting the test. The vendor will update the Council, the employee, and local public health official if applicable about the status and results of the test.
  - C. Testing may occur during work hours or outside of work hours, per approval from an employee's supervisor or manager. Time to test is expected to take no more than 30 minutes and will be considered work time. Travel time to or from a testing site may be compensable according to the Fair Labor Standards Act (FLSA).
  - D. Time required to test with, and travel time to or from a testing site operated by, non-Council approved vendors will not be compensable.
3. Employees must complete testing by 11:59 PM on Thursday October 7, 2021, in order to be cleared to work any shift at the workplace that starts or ends on Monday October 11, 2021, through Friday October 15, 2021. Subsequently, employees must complete a test no later than

Thursday at 11:59 PM every week in order to be cleared to work any shift at the workplace that starts or ends the proceeding Saturday through Friday.

4. The vendor will update Human Resources indicating an employee's testing status. An employee's testing status need only show that a test has been taken. Employees will be allowed to work at the workplace while their test results are pending, so long as the employee continues to follow all other site-specific precautions (including wearing a mask and screening for symptoms) as applicable.
5. COVID-19 test results are communicated as follows:
  - A. The vendor will communicate the COVID-19 test results to the employee and Human Resources as soon as they are known.
  - B. The vendor may also report positive test results to Minnesota Department of Public Health (MDH) and/or local public health. State and federal laws may authorize or require MDH to share an employee's health information with others without the employee's consent.
  - C. Employees who test positive are subject to the division's procedures regarding COVID-19 absence management. Employees with positive test results must contact their supervisor, must isolate according to current MDH and CDC Guidelines, and must not report to the workplace. The employee's supervisor and/or manager will determine whether the employee's job duties can be performed through telework. Employees may not return to the workplace until they either (a) receive negative NAAT test after having tested positive on an antigen test, (b) they meet the criteria to return under CDC "Isolation Guidance," or (c) receive a return-to-work recommendation from a licensed healthcare provider.
6. Employees may also submit a copy of their proof of test and/or results via Employee Self Service (ESS). Employees will add information to the ESS page and upload a scanned or photographic image of official proof of being tested and/or test results. If the proof is not legible or verifiable in the form presented, the employees may be asked to present the original document.

A test for SARSCoV-2 (COVID-19) must be:

- Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the FDA to detect current infection with the SARSCoV-2 virus (e.g., a viral test);
  - Administered in accordance with the authorized instructions; and
  - Not both self-administered and self-read unless observed by the employer or an authorized telehealth proctor. Examples of tests that satisfy this requirement include tests with specimens that are processed by a laboratory (including home or on-site collected specimens which are processed either individually or as pooled specimens), proctored over-the counter tests, point of care tests, and tests where specimen collection and processing is either done or observed by an employer.
7. Employees whose test status is not known by Fridays at 12:00 PM and who either do not submit to a COVID-19 test or who do not provide documentation of having taken a test at another facility, will not be permitted to report to the workplace and may be subject to disciplinary action, up to and including discharge.
    - A. These employees may be sent home and placed on unpaid leave until they have notified Human Resources that they have been tested for COVID-19, or until management, in its sole discretion, determines they no longer require COVID-19 testing. The employee's supervisor may offer to meet with the employee to learn the reasons for the employee being unable to complete a COVID-19 test and obtain any additional information needed



before disciplinary action is taken. If applicable, the employee may have union representation at the meeting.

B. Employees placed on unpaid leave who later determine they wish to be tested may obtain a COVID-19 test on their own time at their own expense and submit proof of test completion to Human Resources with prior management approval.

8. Employees may request a reasonable accommodation by following the steps in [HR 2-1a Disability and Accommodation Procedure](#).
9. Employees who recover from COVID-19 may test positive after serving their required quarantine period and after their symptoms have ended. Per current guidance from the Centers for Disease Control and Prevention, employees who are testing weekly will not need to complete a weekly test for a period of 90 days following the initial/first positive test date.
10. An unvaccinated employee who wishes to get vaccinated may receive up to four (4) hours of paid administrative leave per dose to attend to a vaccination appointment and up to sixteen (16) hours of paid accrued leave (from the employee's bank) per dose to recuperate from side effects if needed. This leave is in addition to any other available leave banks. Employees should request such leave from their supervisor per the division's leave request procedures to allow for ample time to plan for staffing coverage. After completing their vaccination series, employees may submit proof of vaccination according to "Providing Proof of Vaccination Status."

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## CONFIDENTIALITY

The Metropolitan Council will maintain the confidentiality of employee COVID-19 test results and vaccination status as provided by law.

Employees will be provided a Tennessean advisory upon submitting documentation in compliance with this procedure.

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## ROLES & RESPONSIBILITIES

Role	Responsibilities
Employees	Employees are responsible for ensuring their compliance with this procedure dependent upon their individual work arrangements.
Division Leaders and their designees	Division Leaders and their designees will be responsible for ensuring compliance with this procedure.
Managers and Supervisors	Managers and Supervisors will be responsible for ensuring employees working on site comply with this procedure.
Human Resources	Human Resources will be responsible for data, record keeping, and communications related to this procedure.

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## DEFINITIONS

**Workplace:** any location outside of an employee's home where Council work is performed, or any location visited by the employee for more than 10 minutes while on work time.

**COVID-19 test:** a diagnostic test showing whether an employee has a current infection. Two types of tests can be used: molecular (polymerase chain reaction or "PCR") and antigen (rapid) tests. Tests are typically taken using swab or saliva samples.

**Onsite contractors:** any contractor, vendor, or other person performing services on behalf of the Council who is required to perform job duties onsite at a Council facility or in the community.

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## RESOURCES

### Related Policies

- [\*HR 2-1 Disability Management and Reasonable Accommodation Policy\*](#)
- [\*HR 4-1 Benefits Policy\*](#)
- [\*QEO 1-1 Equity Policy\*](#)
- [\*QEO 2-1 Affirmative Action and Equal Opportunity Policy\*](#)
- [\*QEO 3-1 Accessibility Policy\*](#)

### Related Procedures

- [\*HR 2-1a Disability and Accommodation Procedure\*](#)
- [\*HR 4-1a Vacation/Annual Leave Procedure\*](#)
- [\*HR 4-1b Sick Leave and Income Protection Procedure\*](#)
- [\*HR 4-1c Leaves of Absence Procedure\*](#)
- [\*HR 4-1e Family Medical Leave Act Procedure\*](#)

### Forms

- [\*Employee Attestation of COVID-19 Vaccination Status\*](#)

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## HISTORY

### Version 2 – Approval Date

01/06/2022 – Updated to comply with new OSHA requirements, effective Jan. 10, 2022.

### Version 1 – Approval Date

9/16/2021

### Last Reviewed Date

01/06/2022

### Next Content Review Date

04/06/2022

### Version

2

## 8. AFFIRMATIVE ACTION CERTIFICATION STATEMENT

(See Proposal Instructions, Section 17, for more information.)

Proposer Company Name: \_\_\_\_\_

Contract Number: 22P172

Project Name: IT Professional Services and Staff Augmentation

**(NOTE: If the proposal amount exceeds \$100,000, EITHER this form OR a currently effective affirmative action Certificate of Compliance for the Proposer, issued by the Minnesota Department of Human Rights, MUST be submitted with the proposal. See section 17 of the Instructions to Proposers for additional information.)**

**Instructions:** If a proposal is in an amount greater than \$100,000, the Council cannot accept the proposal unless the Proposer can affirm either Statement #1 or Statement #2 below. The Proposer must select (by checking the appropriate box) and certify as true one of the two statements below, if it is able to do so. In making its certification, the Proposer should carefully bear in mind the post-submittal requirements noted in connection with each statement. After submittal of the proposal the Council reserves the right to require documentation from the Proposer supporting the certification or to otherwise verify the accuracy of the certification. **If neither statement can be affirmed, no proposal should be submitted.**

### CHECK ONLY ONE BOX!

<input type="checkbox"/>	The business executing this certification <u>did have more</u> than 40 full-time employees within the State of Minnesota on one or more working days during the 12 months previous to the date the proposal is due. IN ADDITION, the business either: <ul style="list-style-type: none"><li>a. has submitted an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals to the Commissioner of Human Rights for approval; or</li><li>b. has a currently effective Certificate of Compliance from the Commissioner of Human Rights indicating that it has an approved affirmative action plan.</li></ul> <p><b>Note: Prior to execution of any agreement arising out of this procurement, the Proposer will be required to provide the Council with a copy of its currently effective Certificate of Compliance.</b></p>
<input type="checkbox"/>	The business executing this certification <u>did not have more</u> than 40 full-time employees within the State of Minnesota on any working day during the 12 months previous to the date the proposal is due. <b>Note: Prior to execution of any agreement arising out of this procurement, the Proposer will be required to provide the Council with at least one of the following on a form to be provided by the Council:</b> <ul style="list-style-type: none"><li>a. certification that the business has a currently effective Certificate of Compliance issued by the Commissioner of Human Rights, along with the copy of that document; or</li><li>b. certification that the business is in compliance with federal affirmative action requirements; or</li><li>c. certification that the business's primary place of business is not in the United States; or</li><li>d. certification that the business did <u>not</u> have more than 40 full-time employees on any working day during the 12 months prior to the date on which it submitted its proposal, in the state where the business has its primary place of business.</li></ul>

### CERTIFICATION

On behalf of the Proposer, I certify that the above response is true as of the date this form is signed. I have read and understand the requirements related to this certification statement.

Proposer Name: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_



## 9. EQUAL PAY CERTIFICATION STATEMENT

(See Proposal Instructions, Section 23, for more information.)

Proposer Company Name: \_\_\_\_\_

**Contract Number:** 21P270

**Project Name:** IT Professional Services and Staff Augmentation

**Instructions:** If a proposal is in an amount greater than \$500,000, the Council cannot accept the proposal unless the Proposer can affirm either Statement #1 or Statement #2 below. The Proposer must select (by checking the appropriate box) and certify as true one of the two statements below, if it is able to do so. In making its certification, the Proposer should carefully bear in mind the post-submittal requirements noted in connection with each statement. After submittal of the proposal the Council reserves the right to require documentation from the Proposer supporting the certification or to otherwise verify the accuracy of the certification. **If neither statement can be affirmed, no proposal should be submitted.**

### CHECK ONLY ONE BOX!

<input type="checkbox"/>	The business executing this certification <u>has 40 or more</u> full-time employees either in the State of Minnesota or in a state where it has its primary place of business on a single day during the prior 12 months. IN ADDITION, the Proposer will certify: <ol style="list-style-type: none"><li>1. The business is in compliance with Title VII of the Civil Rights Act of 1964, Equal Pay Act of 1963, Minnesota Human Rights Act, and Minnesota Equal Pay for Equal Work Law;</li><li>2. The average compensation for its female employees is not consistently below the average compensation for its male employees within each of the major job categories in the EEO-1 employee information report for which an employee is expected to perform work under the contract, taking into account facts such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, or other mitigating factors;</li><li>3. The business does not restrict employees of one sex to certain job classifications and makes retention and promotion decisions without regard to sex;</li><li>4. The wage and benefit disparities are corrected when identified to ensure compliance with the laws cited in Minn. Stat §363A.44, Subd.1; and</li><li>5. How often wages and benefits are evaluated to ensure compliance with the laws cited in Minn. Stat §363A.44, Subd. 2(a) (5).</li></ol> <p><b>Note: Prior to execution of any agreement greater than \$500,000 arising out of this procurement, the Proposer must provide the Council with a copy of its currently effective Equal Pay Certificate pursuant to Minn. Stat. § 363A.44. An Equal Pay Certificate is also required if a subsequent modification to the contract increases the total amount of the contract to greater than \$500,000.</b></p>
<input type="checkbox"/>	The business executing this certification <u>did not have 40 or more</u> full-time employees within the State of Minnesota or a state where it has its primary place of business on a single day during the 12 months prior to the due date.

### CERTIFICATION

On behalf of the Proposer, I certify that the above response is true as of the date this form is signed. I have read and understand the requirements related to this certification statement.

Proposer Name: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

## 10. SUBCONTRACTOR INFORMATION FORM

(See Proposal Instructions, Section 18, for more information.)

Proposer Company Name: \_\_\_\_\_

Contract Number: 22P172      Project Name: IT Professional Services and Staff Augmentation

**(NOTE: This form MUST be submitted with each proposal.)**

Check ONE of the following:

\_\_\_\_\_ No subcontractors will be used by Proposer on this project.

\_\_\_\_\_ Subcontractors are proposed to be used on this project. The following is 1) a list of subcontractors proposed to be used on the project AND 2) a list of subcontractors who submitted bids or quotes to the Proposer for the project but were not selected by the Proposer:

### 1) SUBCONTRACTORS PROPOSED TO BE USED ON THE PROJECT:

Firm Name	Address	Telephone Number

### 2) SUBCONTRACTORS WHO SUBMITTED BIDS OR QUOTES BUT WERE NOT SELECTED:

Firm Name	Address	Telephone Number

**(Form continued on next page.** Use copies of page 1 of this form if space is needed to list additional subcontract firms and attach such copies to the form.

## **CERTIFICATION**

On behalf of the Proposer identified below, I certify that the information provided in this form is true and correct.

Proposer Name: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

## 11. DISCLOSURE AND CERTIFICATION REGARDING CONFLICT OF INTEREST

(See Proposal Instructions, Section 12, for more information.)

Name: \_\_\_\_\_ (the "Proposer")

Relationship: \_\_\_\_\_  
(i.e. contractor, consultant, subcontractor, etc.)

**1. Certification.** The Offeror hereby acknowledges that it has read the Conflict of Interest Guidelines included in the solicitation and has, to the best of its knowledge and belief:  
(Choose One)

### *Organizational Conflict of Interest*

\_\_\_\_\_ Determined that there are no relevant facts or circumstances which could give rise to conflicts of interest.  
(Offeror may provide an explanation or any supporting documentation).

OR

\_\_\_\_\_ Determined that one or more conflicts of interest exists. (Offeror must provide a Mitigation Plan).

*Personal Conflict of Interest* (The Council may not enter into any contract or purchase order for goods or services in which a Council member, or Council employee or their immediate family members has an indirect or direct personal financial interest or will personally benefit financially from the contract or purchase order.)

\_\_\_\_\_ Determined that no personal conflict of Interest Exists

\_\_\_\_\_ Determined that a personal conflict of Interest Exists (Offeror must provide a Mitigation Plan)

**2. Flow-Down.** The Offeror must include a signed copy of this certification form for each of its subcontractors and subconsultants with the terms "contract," "Offeror," and "Council" modified appropriately to preserve the Council's rights. The Offeror must submit all subcontractor forms to the Council with its proposal.

**3. Continuing Obligations.** The Offeror has a continuing obligation to the Council to disclose conflicts of interest to the Council during the solicitation phase or, if awarded a contract, throughout the duration of the contract. During the solicitation, the Disclosure and Certification Regarding Conflict of Interest Form(s) and any related mitigation plan(s) must be submitted to the RFP Administrator. After the Council issues a Notice to Proceed, all documents must be submitted to the Contract Manager designated by the Council.

## CERTIFICATION

By signing below, the Offeror certifies that the information contained in this form is accurate to the best of its knowledge, and that the Offeror agrees to comply with the requirements herein. The Offeror has a continuing obligation to the Council to disclose conflicts of interest to the Council during the solicitation phase or, if awarded a contract, throughout the duration of the contract.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## 12. METROPOLITAN COUNCIL MITIGATION PLAN TEMPLATE FORM

### Instructions for Preparation of a Mitigation Plan Template Form

Each Mitigation Plan should be thorough, detailed, and substantive, to allow the Council to adequately evaluate whether it can mitigate an organizational conflict of interest. If Proposer is aware of a potential conflict of interest - Proposer must provide a mitigation plan using this template and any associated documents to the Council. Mitigation plans will be reviewed by Council staff. The Council reserves the right to negotiate or require additional mitigation prior to award if the Council deems additional mitigation steps necessary. The Council is not required to mitigate a conflict if a conflict of interest is determined to exist which cannot be adequately mitigated.

**The Council requests mitigation plans be returned as soon as possible to appropriately mitigate any conflicts prior to solicitation. This is of importance when an Proposer has a potential conflict related to unequal access to information as those documents may be included in a solicitation to mitigate that conflict.**

Send your signed Mitigation Plan and any associated documentation to Marie Ozanne at [marie.ozanne@metc.state.mn.us](mailto:marie.ozanne@metc.state.mn.us)

Project Name & Contract Number	Company	Contact information	Submitted by:

**Signature and Title of Individual Submitting:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Nature of Conflict	Include detailed information on relationship and name of entity
Applicable Contract numbers	Include with the Council or any other entity
Personnel Involved & Extent of Involvement	Include amount of time that has passed between the end of the original contract or subcontract and this solicitation
Actions Taken to Mitigate Potential Conflict	

Section to be filled out by the Metropolitan Council's Procurement Department

Date Received	
Received By	