

COUNTY OF BERKS

Request for Proposal #08

Instructions and Requirements

Homeless Assistance - HAP

Fiscal Year 08 / 09

**Submittal Deadline:
Monday, March 24, 2008, 4:00 P.M., Local Prevailing Time**

SECTION ONE- Introduction and Instructions

1.1 Purpose of Request for Proposal (RFP)

The County of Berks (hereinafter "County"), Reading, Pennsylvania is soliciting competitive proposals from professional organizations that are interested in and capable of providing eligible services that fall under the scope of the Homeless Assistance Fund, as set forth by the Office of Social Programs, Pennsylvania Department of Public Welfare, and administered by the Human Services Office on behalf of the County of Berks.

Eligible services under the HAP fall into one of five categories. These categories include Case Management, Rental Assistance, Bridge Housing, Emergency Shelters and Innovative Supportive Housing Services.

1.2 Submission of Proposal

Proposals shall be submitted in one (1) original and one (1) electronic version to: County of Berks, c/o: Mary Henry-Moss, Berks County Services Center, 633 Court Street, 13th Floor, Reading, PA 19601. *Original shall be marked "original"*. Proposals must be enclosed in a sealed envelope with the words "Homeless Assistance - HAP" and the RFP number clearly printed on the outside. Proposals received via facsimile will not be considered. Electronic version to mhenry-moss@countyofberks.com

1.3 Due/Opening Dates

The cutoff time for receipt of Proposals is 4:00 P.M., local prevailing time, Monday, March 24, 2008. **Proposals received after the deadline noted herein will not be considered during first round.**

1.4 Preparation of Proposals

In order for a proposal to be considered, proposals must be typewritten directly into the RFP word document and Proposers must follow all instructions contained in this RFP in the preparation of their proposal. The County is not responsible and shall not be liable for any costs associated with the preparation, submittal, or presentation of any proposal.

1.5 Amendments to Proposals

Amendments to or withdrawals of proposals will only be allowed, if acceptable requests are received prior to the deadline set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the County's request.

1.6 Required Review

Defects: Proposers shall carefully review this RFP for defects and questionable or objectionable matter. Comments concerning such matter must be made in writing and directed to Mary Henry-Moss, Human Service Grants Coordinator, via mail at Berks County Services Center, 633 Court Street, 13th Floor, Reading, PA, 19601; via email at mhenry-moss@countyofberks.com; or via facsimile 610-478-6206, at least ten business days prior to the due date of the proposal. This will allow for the issuance of any necessary amendments.

General: All questions must be directed to Mary Henry-Moss, Human Service Grants Coordinator. These questions may be made via telephone to 610-478-6294.

If an amendment is issued, it will be provided to all parties who were provided a copy of the Request for Proposal, by the County's Human Service Department.

1.7 Disclosure of Proposal Contents

All proposals and other material submitted become the property of the County and may be returned only at the County’s option. Information contained in the proposals will not be disclosed during the evaluation process. Under Pennsylvania’s “Right to Know” laws (65 P.L. 390 § 66.1, 66.3, 21 June 1957) public records are required to be open to reasonable inspection. All proposal information will be held in confidence during the evaluation process and prior to the time a Notice of Award is issued. Thereafter, proposals will become public information. Copies of said public records may be made in the Human Service Office at a cost to the requesting party of \$.50 per page.

1.8 Subcontractors

Subcontractors will not be allowed.

1.9 Conflict of Interest

Each proposal shall include a statement indicating whether or not the organization or any individuals working on the proposed scope of service has a possible conflict of interest (e.g., themselves, spouse or child employed by the County of Berks) and, if so, the nature of that conflict. The County reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the project to be performed by the Proposer. The County’s determination regarding any question of conflict of interest shall be final.

The County may exclude a prospective Proposer from submitting a proposal, or may reject a prospective Proposer’s proposal, after making a written determination that the prospective Proposer assisted in drafting the Request for Proposal, or gained substantial information regarding the Request for Proposal that was not available to the public.

SECTION 2- Standard Proposal Information

2.1 Discussions with Proposers

The County may elect to conduct discussions with responsible Proposers who submit proposals determined to be reasonably susceptible of being selected for award. The purpose of these discussions will be to clarify and assure Proposer’s full understanding of, and responsiveness to, the solicitation requirements. Proposers reasonably susceptible of being selected for award shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revision may be permitted after submissions and before award of the contract for the purpose of obtaining best and final offers. In conducting these discussions, the County may not disclose information derived from proposals submitted by competing Proposers.

2.2 Right to Negotiate

After the County’s completion of the evaluation process, including any discussions held with participating Proposers during the evaluation process, the County may elect to initiate contract negotiations. The option of whether or not to initiate contract negotiations rests solely with the County.

2.3 Failure to Negotiate

If selected Proposer/s fail to provide the information required to begin negotiations in a timely manner; or if the Proposer/s fail/s to negotiate in good faith; or if the Proposer/s indicate/s they cannot perform the contract with the budgeted funds available; or if the Proposer/s and the County after a good faith effort, simply can not come to terms, the County may terminate negotiations with the Proposer/s.

2.4 Rejection of Proposals

The County reserves the right to reject any and all proposals, to waive any informalities, and to accept or reject any part of a proposal if, in its judgment, the best interests of the County are thereby served.

2.5 Award of Contract

The County shall award a contract to the responsible and responsive Proposers whose proposals are determined to provide the best overall value to the County as to the most favorable in terms of apparent ability to perform effectively and efficiently the human services being procured through this RFP.

SECTION 3 - Standard Contract Information

3.1 Standard Contract Provisions

The County's standard contractual terms and conditions are set forth in Appendix A, General Conditions of Purchase. Reasons for objection to any part of the General Conditions of Purchase must be detailed in the proposal and proposed alternate language provided. Time is of the essence in the award of a contract. Hindrance of the award process due to the extent of a Proposer's proposed modifications may have a negative impact on the County's assessment of that Proposal.

3.2 Proposal as Part of the Contract

Part or all of this Request for Proposal and the successful proposal may, at the discretion of the County, be incorporated into the contract.

3.3 Additional Terms and Conditions

The County reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the Request for Proposal and will not affect the proposal evaluations.

3.4 Insurance

The successful Proposer, at its expense shall carry and maintain, in full force at all times during the contract term: General Liability Insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate and Professional Liability Insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate (if awarded a contract for the provision of a counseling service). Prior to commencement of performance under the contract, the successful Proposer shall furnish to the County a certificate of insurance evidencing all required coverage in at least the limits required herein, **naming the County of Berks, its elected officials, agents and employees as additional insureds under the Comprehensive General Liability coverage**, noting the project on the certificate, and providing that no policies may be modified or cancelled without thirty (30) days advanced written notice to the county. Such certificate shall be issued to: County of Berks, Attn.: Contract Coordinator, 633 Court Street, 13th Floor Services Center, Reading, PA 19601. All policies shall be in effect with companies holding an A.M. Best Rating of "A-VII" or better and shall be licensed to do business in the Commonwealth of Pennsylvania. Such companies shall also be acceptable to the County.

Section 4- Specifications

4.1 Background

The Homeless Assistance Program (HAP) was implemented by the Commonwealth of Pennsylvania and makes available a continuum of services to homeless and near homeless individuals and families. HAP funding is provided to County governments by the Department of Public Welfare. HAP funds help to assure: 1) homelessness can be avoided through a variety of prevention services assisting clients to maintain affordable housing; 2) people who are homeless can find refuge and care; and 3) homeless and near homeless clients are assisted in moving toward self-sufficiency. These Categorical Programs include:

- Case Management
- Rental Assistance
- Bridge Housing
- Emergency Shelters
- Innovative Supportive Housing Services

Through the HAP, counties are provided an annual appropriation. Counties are in turn responsible to plan the utilization of these resources within the Commonwealth's Guidelines according to their own community's needs.

Berks County's Office of Human Services carries out the planning, allocation, monitoring and reporting on the resources it receives through the Homeless Assistance Program on behalf of the Board of Commissioners.

4.2 Project Goals and Objectives

The objectives for the use of the Homeless Assistance Program by the County of Berks are the following:

- Target identified service gaps within existing county categorical programs
- Mitigate the effects of homelessness on families and individuals through the provision of housing, prevention activities and case management services
- Assist clients in reaching housing related self-sufficiency
- Coordinate with other community funding resources to avoid duplication of service
- Prioritize the use of services which promote client attainment of self-sufficiency
- Prioritize the use of services which prevent long term problems through early intervention
- Quantify service impact
- Utilize data for continuous quality improvement of service and in planning decisions for future allocation of Homeless Assistance Funds

4.3 Scope of Service

The total amount of available HAP funding through the County of Berks that is available for competitive bid is \$550,000, pending State budget approval. Last fiscal year, nine community providers received HAP allocations for three different types of service. The only services that are eligible for funding under HAP, as established by the Department of Public Welfare, Office of Social Programs are the following:

- **Categorical Services including these specified populations-** low-income adults, homeless or near-homeless as defined as 1) residing in a group shelter; domestic violence shelter; hotel or motel paid for with public or charitable funds; a mental health, drug, or alcohol facility; jail; or hospital with no place to reside; or living in a home, but due to domestic violence, needs a safe place to reside; 2) have received verification that they are facing foster care placement of their children solely because of lack of adequate housing, or need housing to allow reunification with children who are in foster care placement; 3) are living in a “doubled-up” arrangement for six months or less on a temporary basis; 4) are living in a condemned building; 5) are living in housing in which the physical plant presents life and/or health threatening conditions; or 6) are living on the streets, in cars, doorways, etc. Clients must also meet the eligibility requirements for the specific service component(s) from which they are seeking services. Low income is defined as those who are at or below **200%** of the Federal Income Poverty Guidelines. This does not apply to those who need HAP services due to a disaster or domestic violence.
- **Case Management-** is used for coordination, with the client, of the helping activities needed by the client from the service provider agency and other resources in the community to achieve the goal of self-sufficient living. Case Management begins with the intake process and should include setting goals in the area of basic life skills, financial management, parenting skills, home maintenance, job preparation skills, and/or employment skills.
- **Rental Assistance-** provides payments for rent, mortgage arrearage for home and trailer owners, rental costs for trailers and trailer lots, security deposits, and utilities to prevent and/or end homelessness or near homelessness by maintaining individuals and families in their own residences.
- **Bridge Housing-** is a transitional service that allows clients who are in temporary housing to move to supportive long-term living arrangements while preparing to live independently. While in this program, clients must receive case management and supportive services and must have a service plan that describes how the program will assist clients for up to 18 months with the goal of returning clients to the most independent life situation possible.

Under **Categorical Services** there are certain allowable service/cost centers established by the Commonwealth, which are subject to change and updated on an annual basis. If you are proposing a service under a categorical program it must fall into a specified cost center. The current allowable and non-allowable cost centers under each categorical service are the following:

Case Management

- Operating: office rent, communications, insurance, legal services, audits, office supplies, staff travel, overhead, and systems consultants and client tracking
- Fixed Assets: equipment
- Personnel: wages and salaries, benefits, and training/conferences

Non-Allowable Expenditures

- Payments made on behalf of clients for shelter or support services other than case management
- Payments for already existing Case Management services

Rental Assistance

- Operating: office rent, communications, insurance, legal services, audits, office supplies, staff travel, overhead, and systems consultants and client tracking
- Fixed Assets: equipment

- Personnel: wages and salaries, benefits, and training/conferences
- Rental Assistance Payments, including rental payments or arrearage, utility payments or arrearage, lot rental payments, mortgage arrearage for home or trailer owners and security deposits for rental units.

Non-Allowable Expenditures

- Assistance towards the purchase of a home
- Payments for equipment, such as a furnace, water pump, stove
- Payments of liens

Bridge Housing

- Operating: office rent, communications, insurance, legal services, audits, office supplies, staff travel, overhead, occupancy, and systems consultants
- Fixed Assets: real property, equipment, furnishings, repairs, and renovations
- Personnel: wages and salaries, benefits, and training/conferences

Non-Allowable Expenditures

- Mass shelter (nights)
- Motel/Hotel/Boarding homes

Emergency Shelter

- Operating: mass shelter supplies such as cots, blankets, and personal hygiene items
- Personnel: wages, salaries, and benefits, only if they are part of a mass shelter per diem rate
- Client: mass shelter nights, motel and hotel stays

Non-Allowable Expenditures

- Rental Payments, mortgage subsidies and utility payments
- Real property, renovations or repairs
- Equipment purchases exceeding \$300
- The payment of wages for a client as a social service
- The provision of any educational service which Pennsylvania generally makes available
- The provision of cash payments as a service

4.4 Client Eligibility

If the County chooses to use HAP dollars for any of the allowable services identified above for categorical programs, the following rules apply:

- The client served must meet the eligibility requirements established by the Categorical Program under which the service is provided;
- Below-income, homeless or near homeless;
- The HAP funded service activities provided must conform to the service definition established by the categorical program for that service

For services to low-income adults, client eligibility must be determined, documented and retained by each contracted provider agency. For consistent levels in determining income and resources, refer to Part VI. Definitions of Resources and Income of the Instructions and Requirements , Homeless Assistance Program Booklet.

4.5 Encumbrances

Funds may not be encumbered out of a current year grant for costs anticipated to be incurred in a succeeding year or which have been paid in a prior year.

4.6 Provider Responsibilities

- The County of Berks may retain primary responsibility for delivering HAP services, or the county may subgrant funds to nonprofit agencies to deliver services. If the county subgrants the administration of the HAP, the subgrantee is responsible to meet all county requirements.
- Maximize the use of other public and private community resources to leverage state HAP funds for both the county and service providers. Counties and service providers may accept monetary contributions from public and private organizations, as well as donations of property, equipment and supplies.
- Insure that participation in the HAP is not dependent upon a client's affiliation with, or attendance at, religious or political activities
- Insure that the program does not discriminate against any person because of race, color, religious creed, ancestry, national origin, age, sex, disability, life style, or sexual orientation.
- Insure that only homeless or near homeless clients are served with HAP funds and that funds are expended only on allowable services as described.
- Establish linkages with other community organizations or agencies.
- Involve local fire officials in purchase and renovation decisions
- Secure insurance on purchased facilities which protects the program's investment
- Insure the protection and privacy of sleeping arrangements for all clients in facilities housing more than one target population
- Insure that participation in the HAP is not dependent upon a client's affiliation with, or attendance at, religious or political activities.

4.7 Required Reporting

All awardees are required to submit, at a minimum, quarterly and year end information on units of service provided, number of clients served and cost of service for the period. This information is due by the 20th day following the end of the previous quarter. This required information is subject to amendment in accordance with any changes implemented by the Pennsylvania Department of Welfare's Office of Social Programs. In addition, all Proposers are asked to identify service outcomes and indicators that will be used for measurement of service impact throughout the fiscal year. Awardees must submit outcomes information, at a minimum, on a biannual basis. The collection dates for this information will be 30 days following the completions of the second and fourth quarters.

4.8 Client Records

Providers must insure the development of a case record, client intake procedures, and maintenance of service records on each client with consideration to client confidentiality, but permits sharing of information which will benefit the client.

Providers must provide case management services, where appropriate, for clients which include the formulation of a service plan with measurable goals and expected client outcomes, and the provision of periodic reviews and updating of service plans. The service plan must be signed by the client.

Financial records, supporting documents, statistical records, records for non-expendable property, and all other records pertinent to HAP grants will be retained for a period of four (4) years following submission of the Final Expenditure and Client Reports to the Department.

If any litigation, claims, or audit is started before the expiration of the four-year retention period, the records will be retained until litigation, claims, or audit findings involving the records is resolved.

4.9 Agreements Written

At a minimum, the following items should be included in the written agreement between the provider agency and the client:

- Basic expectations of the client and the criteria for termination from the program including the procedures a client follows if they want to appeal denied or terminated services.
- The Landlord-Tenant Act is not applicable to housing provided with HAP funds. This requirement applies to Bridge Housing clients only.

SECTION 5- Proposal Format and Content

5.1 Proposal Format and Content

The County discourages overly lengthy and costly proposals; however, in order for the County to evaluate proposals fairly and competently, Proposers should follow the format set out herein and provide all the information requested.

Proposals by individuals must be signed personally, with name typed below signature, and witnessed. A complete address and trade name must be provided. Proposals by partnerships must include the typed names and business address of all partners and the trade name of the company. The proposal must be signed by at least one general partner, whose signature must be witnessed. Proposals by corporations must include the typed name of the corporation, the State of incorporation, and the principal officer of the corporation. The proposal must be signed by the President or Vice-President, or Executive Director (or by an officer or agent duly authorized to bind the corporation to a contract, proof of whose corporate authority shall be attached), attested by the Secretary, Assistant Secretary, or Treasurer of the corporation.

APPENDIX A - GENERAL CONDITIONS OF PURCHASE

1. DEFINITIONS AND HEADINGS:

(a) The Request for Proposal, the proposal, the notification of award, and the purchase order or contract constitutes the complete agreement between the parties (hereinafter the "Agreement"). References to the Agreement include these General Conditions. "County" or "County of Berks" and "Consultant" are the parties identified as such in this Agreement. "Services" means the services identified in this Agreement as being the services to be performed by Consultant under this Agreement. The "Goods" means the equipment or items to be supplied by Consultant under this Agreement.

(b) All headings of the Articles of these General Conditions are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

2. PRECEDENCE: The terms of these General Conditions, any additional Special Conditions, and any terms and conditions contained in a purchase order or contract supersede any printed or typed conditions forming a part of Consultant's proposal. The General Conditions, Special Conditions, and specifications contained in this Request for Proposal, and, if applicable, the purchase order/contract conditions cannot be waived, altered or modified except by written agreement of the parties. Where conflict exists between the Request for Proposal, notification of award, and purchase order or contract, the more demanding requirements shall apply.

3. TAXES: The County is exempt from all Federal excise and transportation taxes, and Pennsylvania sales and use tax. The County's registration number with the Internal Revenue Service is 23-6003049. No exemption certificates are required and none will be issued. Nothing in this paragraph is meant to exempt a construction Consultant from the payment of sales tax or use tax required to be paid with respect to its purchase or use of tangible personal property used or transferred in connection with the performance of its construction contract. If the County is required by law to pay any excise tax and then seek a refund or credit, the Consultant may add the amount of the tax to the bid price as a separate item.

4. WARRANTY: Consultant warrants to the County that the Goods and Services furnished under this Agreement, whether manufactured or fabricated by Consultant or others, shall be (a) new (unless the County has approved otherwise) and strictly conform to the specifications, drawings, samples or descriptions referred to herein or provided by the County to Consultant, and (b) free from defects in materials and workmanship. All work performed shall be done in a skilled manner and shall comply with industry standards. Consultant shall promptly repair or replace Goods and re-perform Services, after receiving notification from the County of defects or nonconformance. Goods manufactured or Services provided by a third party and supplied by Consultant shall carry all third party warranties. All warranties shall survive any inspection, delivery, acceptance, or payment.

5. INSPECTION AND REJECTION: Goods received by the County shall not be deemed accepted until the County has had a reasonable opportunity to inspect. Goods which are discovered to be defective or non-conforming to the agreed upon specifications may be rejected upon initial inspection or at any later time if the defects or non-conformity were not reasonably discoverable at the time of initial inspection. Within fifteen (15) days of receipt of notification of rejection, Consultant shall remove rejected Goods from the premises without expense to the County. Rejected Goods not removed within fifteen (15) days will be regarded as abandoned and the County shall have the right to dispose of such Goods as its own property and shall retain that portion of the proceeds of any sale which represents the County's costs and expenses in regard to the storage and sale of the Goods. Upon notification of rejection, the Consultant shall immediately replace all such rejected Goods with others conforming to the specifications and which are not defective. If the Consultant fails, neglects or refuses to do so, the County shall then have the right to purchase in the open market a corresponding quantity of such Goods, and deduct from any monies due or that may thereafter become due to the Consultant, the difference between the price stated and the actual cost thereof to the County. If the amount due the Consultant is insufficient to meet such expenses, the Consultant shall be liable for the excess and the County may proceed against the Consultant through appropriate legal action.

6. PATENTS, COPYRIGHTS, TRADEMARKS: Consultant warrants, represents and covenants that the Goods and the sale and use thereof do not infringe directly or indirectly any valid patent, copyright, property right or trademark, and Consultant agrees, at its cost and expense, to indemnify and hold the County free and harmless from and against any and all costs, expense, liabilities or damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement resulting from the sale or use of the Goods.

7. INDEMNITY: Consultant agrees to indemnify and hold harmless the County, its elected officials, employees and agents from and against any and all liability, damages, claims, suits, liens, and judgments (including reasonable attorney's fees), of whatever nature, for injuries to or death of any person or persons, or loss of or damage to property, to the extent attributable to the negligent acts of Consultant, its subcontractors or its respective agents, servants, or employees or such parties' failure to perform in accordance with the provisions of this Agreement.

8. FORCE MAJEURE: Neither party shall be liable for any failure or delay in its performance resulting from any cause beyond its reasonable control including, but not limited to, acts of God; acts or omissions of civil or military authority; fires, floods; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; delays in transportation; sabotage; or fuel, power, material or labor shortages, provided that the affected party notifies the other party, in writing, within forty-eight (48) hours subsequent to the commencement of an occurrence of Force Majeure.

9. TERMINATION FOR CONVENIENCE: The County reserves the right, at any time and for its convenience, to terminate this Agreement in whole or in any separable part by written notice to Consultant. Such notice shall be provided at least thirty (30) days prior to the intended termination date. Consultant shall be compensated for Goods accepted and for Services performed in accordance with the provisions of this

APPENDIX A - GENERAL CONDITIONS OF PURCHASE

Agreement up to the effective date of termination, less any payments previously made by the County for such Goods or Services, but in no event shall Consultant be entitled to recover loss of profits.

10. **TERMINATION FOR CAUSE:** In the event that either the Consultant or the County defaults in the performance of any obligation specified herein, the non-defaulting party shall notify the other party in writing and may suspend the Agreement, in whole or in part, pending remedy of the default. If such default is not remedied within fifteen (15) days from the date of receipt of such notice, or if the other party is diligently attempting to cure such default but is unable to cure such default within thirty (30) days from the date of receipt of such notice, then the non-defaulting party shall have the right to terminate the Agreement immediately by providing written notice of termination to the other party.
If, during the term of this Agreement, Consultant shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or become insolvent, Consultant shall give the County written notice of such occurrence as soon as is legally permissible. If such occurrence or proposed occurrence is unacceptable to the County, the County may terminate this Agreement immediately upon written notice thereof to Consultant.
11. **NOTICES:** All notices required under this Agreement shall be in writing. Written notices shall be effective if delivered by hand, or if sent by registered or certified mail, by verified facsimile, or by confirmed courier to the address specified for each party in this Agreement.
12. **CHANGES:** The County shall have the right to make changes to the scope of work set forth in this Agreement. If such changes affect the price or delivery date specified herein, Seller shall, before proceeding, secure approval, in writing, of any change in price or date of delivery.
13. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement. In the event delivery of Goods or completion of Services is delayed, the County reserves the right, without liability, and in addition to its other rights and remedies, to terminate this Agreement by notice, and to purchase substitute Goods or Services elsewhere and charge Consultant with any loss of additional cost incurred.
14. **RECORDS, AUDIT AND INSPECTION:** Consultant shall maintain such records as may be necessary to adequately reflect the accuracy of Consultant's charges and invoices for reimbursement under the Agreement and such other additional records as the County may reasonably require in connection with the Agreement. Consultant shall preserve such records in accordance with statutory requirements, but in no case for less than three (3) years after the date of final payment, without additional reimbursement or compensation therefor. The County and its duly authorized representatives shall have the right, from time to time, and upon reasonable notice, to audit, inspect and verify the records kept by Consultant in connection with this Agreement. The County and its duly authorized representatives shall have the right to visit, observe, audit, and inspect, during the Consultant's normal business hours, Consultant's production and related facilities utilized to perform its obligations under the Agreement.
15. **RELEASE OF LIENS:** Before any payment hereunder shall become due, the County, at its option, may require Consultant to furnish reasonable evidence of the payment of all subcontractor accounts for labor and materials pertaining to Consultant's performance hereunder. Prior to payment, the County reserves the right to require Consultant to furnish the County with a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof, and in any event, Consultant agrees to indemnify and hold harmless the County, its officials, employees and agents from and against any and all liens and encumbrances arising out of Consultant's performance of this Agreement.
16. **ASSIGNMENT:** Consultant shall not assign this Agreement in whole or in part nor delegate any duties, without the prior written consent of the County. Such consent shall not be unreasonably withheld. Any assignment consented to by the County shall be evidenced by a written assignment agreement executed by the Consultant and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the original Agreement and to assume the duties, obligations, and responsibilities being assigned.
17. **PUBLICITY:** Neither Consultant nor any tier subcontractor shall use the name of the County of Berks, or quote the opinion of any County employee in any advertising, publicity, endorsement or testimonial, without the prior written approval of the County.
18. **COMPLIANCE WITH LAWS:** In the performance of this Agreement, Consultant shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities and shall further specifically comply with those sections related to Equal Employment Opportunity. Consultant shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Consultant shall give required notices, and secure and pay for temporary permits, licenses, and easements required for performance of this Agreement.
19. **INDEPENDENT CONSULTANT:** The employees, subcontractor, methods, facilities, and equipment used by Consultant shall be at all times under Consultant's direction and control. Consultant's relationship to the County under this Agreement shall be that of an independent Consultant, and nothing in this Agreement shall be construed to constitute Consultant, its subcontractors or any of their employees as an employee, agent, associate, joint venturer, or partner of the County.
20. **HAZARDOUS MATERIALS:** In the performance of this Agreement, any hazardous material handled by Consultant while on the County's property shall be strictly controlled by Consultant as to use and disposal. Storage and use of and personal protection in handling such materials must comply with the instructions on the applicable Material Safety Data Sheet(s).

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21. **ORDERLINESS & CLEANUP:** In the event Consultant provides any on-site Service under this Agreement, the Consultant shall keep the site free of waste as the work progresses and, on completion of Service, leave the site “broom clean”. In case of dispute, the County may remove waste at Consultant’s expense. In order to comply with the County’s requirement for overall job physical orderliness, Consultant’s tools, equipment, and materials furnished for or associated with the Service shall be so placed and maintained as to permit unobstructed access to the work and to minimize exposure to personal injury or fire loss. Equipment placement and material storage shall be at locations approved by the County.
22. **SAFETY & HEALTH:** Consultant shall:
- (a) comply with all federal, state, and local regulations, and all safety information and instructions as may be set forth in writing or otherwise provided by the County;
 - (b) promptly report to the County all incidents with potentially adverse safety, health or environmental implications, including slips, falls, equipment malfunctions, fume releases, and any situation requiring first-aid or medical observations or treatment;
 - (c) promptly report to the County all cases Consultant determines to be recordable on the OSHA 200 log or its equivalent and, upon request, provide the County with a copy of the OSHA 200 log and all supporting forms; and
 - (d) properly maintain, inspect, and supervise its designated work area and roadways to keep them in reasonably safe condition. This responsibility includes Consultant’s right and duty to conduct reasonable and necessary maintenance in the work area and of the roadways to prevent unsafe work conditions from existing. Consultant shall regularly conduct safety audits and inspections to ensure compliance with its responsibility to maintain a reasonably safe work area.
23. **SUBSTANCE ABUSE:** Consultant shall advise its employees and the employees of its subcontractors and agents that:
- (a) It is the policy of the County of Berks to provide a drug-free work environment. To that end the County prohibits the illegal use, possession, sale, manufacture, dispensing, and distribution of drugs or other controlled substances on the work site, and prohibits in the workplace the presence of an individual with such substances in the body for non-medical reasons.
 - (b) Any employee of Consultant who is found in violation of the policy may be removed or barred from the work site at the discretion of the County.
24. **GOVERNING LAW:** This Agreement shall be interpreted under the substantive law of the Commonwealth of Pennsylvania, without giving effect to any choice of law provision.
25. **CONSULTANT CERTIFICATION:** Consultant certifies that it is not currently under suspension or debarment by the Commonwealth of Pennsylvania or federal government, and if the Consultant cannot so certify, then it agrees to submit along with the bid a written explanation of why such certification cannot be made.
- If the Consultant enters into subcontracts or employs under this Agreement any subcontractors or individual who is currently suspended or debarred by the Commonwealth of Pennsylvania or federal government during the term of this Agreement or any extensions or renewals thereof, the County shall have the right to require the Consultant to terminate such subcontracts or employment, at no cost to the County. The Consultant agrees to reimburse the County for costs and expenses incurred due to the Consultant’s noncompliance with the terms of this certification requirement.
- The Consultant may obtain the current list of suspended and debarred Consultants by contacting the:
- Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
26. **SEVERABILITY:** The provisions of this Agreement shall be deemed to be severable. Consequently, in the event that any provision of this Agreement is found to be void or unenforceable, such findings shall not be construed to render any other provision of the Agreement either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.
27. **RESERVATION OF RIGHTS:** Either party’s waiver of any of its remedies afforded hereunder or by law is without prejudice and shall not operate to waive any other remedies which such party shall have available to it, nor shall such waiver operate to waive such party’s rights to any remedies for future breach, whether of a like or different character. Furthermore, any termination of the Agreement pursuant to the Articles herein entitled **TERMINATION FOR CONVENIENCE** and **TERMINATION FOR CAUSE**, shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued under law or under the terms of this Agreement prior to the date of such termination.
28. **ENTIRE AGREEMENT:** This Agreement contains the complete and entire Agreement between the parties and may not be altered or amended except in a writing executed by a duly authorized official of the County and by a duly authorized individual of the Consultant.

---- END OF GENERAL CONDITIONS -