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REQUEST FOR PROPOSALS

Software Assessment and Acquisition Planning

Issued: September 11, 2023

Due: October 3, 2023 5 p.m.

INTRODUCTION

The Mid America Regional Council (MARC) is seeking proposals from firms with information technology (IT) experience in nonprofit and public sector environments to assist MARC in determining and prioritizing IT solutions that will automate work and create efficiencies. MARC has need for more automation of a variety of administrative and organizational systems, such as human resources, finance, contract management, records management, project management, agenda management, and wants to develop a strategic approach for acquisition of new platforms to ensure compatibility across new and existing systems. This will involve leading MARC staff in the evaluation of current needs and, based on knowledge of software functionality, making recommendations on single or multi-functional platforms. The consultant would then lead acquisition processes and support implementation. The intent is that this would be a multi-year relationship and the scope of this work will include several selection processes and implementations. The objectives and scope of services in this RFP are defined based on current assessment of MARC needs, and priorities and are subject to change.

BACKGROUND

MARC Organizational Structure

MARC is the metropolitan planning organization and association of city and county governments serving the bi-state Kansas City region. It is a public, non-profit agency. MARC serves nine counties with 119 cities, including Cass, Clay, Jackson, Platte, and Ray counties in Missouri; and, Johnson, Leavenworth, Miami, and Wyandotte counties in Kansas.

MARC was formed in 1972 and is governed by a 33-member board of directors composed of city and county elected officials. In addition to the board, MARC has dozens of policy, technical and advisory committees and decision-making entities overseeing its work and providing important and diverse stakeholder involvement. These committees and working groups enable MARC to engage a diverse array of community interests and representatives from often under-represented constituencies.

MARC employs approximately 160 people with work programs that include regional transportation planning, aging and adult services, early learning and head start, local government services, data and economy, regional environmental initiatives, emergency services planning and the regional 911 network. Administrative and organizational functions that support these work programs include communications, human resources, information technology, research services and finance.

Current Technology Infrastructure and Software Applications

Can be provided upon request.

MARC Staff Support for this Project

- The MARC Director of Finance and Administration, IT Director, Chief Innovation Officer and Digital Communications and Knowledge Manager will be the lead team and will provide guidance to the consultant.
- Other key staff will include: Human Resources Generalist, Finance Director, Executive Assistant, and department directors and program managers as needed.

INITIAL OBJECTIVES

- Identify needs, and describe high-level functionality needed.
- Develop a 3-5 year Plan for acquisition and implementation of software platforms that will automate work and create efficiencies that will expand our capacity to support the region.
- Prioritize platforms that have intuitive user experience and an infrastructure that is as integrated as possible, but not over-engineered.
- Base the Plan on an estimated budget, including estimates for maintaining/updating software systems selected, and on MARC's community service needs, financial capacity, staff capacity and technological readiness.

SCOPE OF SERVICES/DELIVERABLES

Phase 1

- Become familiar with current platforms and purpose. (This does not include assessing the design and engineering of our IT infrastructure, except to the extent that it informs capability for software platforms.)
- Work with staff to clarify needs and assess priorities.
- Work with key staff to discuss our business processes and desired functionalities.
- Help staff identify criteria to select high priority investments that could save time and other resources.
- Identify potential solutions/platforms to accommodate desired functionalities.
- Prepare a schedule of acquisition of platforms based on functionality, staff capacity technology readiness and budget.
- Research and narrow down various platforms based on compatibility with IT infrastructure and how well they meet organizational needs. An important

consideration is having applications that can work independently of one another but can communicate and exchange information in an optimal manner to meet business needs.

- Prepare a final informal report summarizing the activities accomplished, information gleaned about needs and set a general schedule for future acquisitions.

Phase 2 (this process may be repeated for sequential acquisition of different platforms)

- Manage the RFP process for acquiring identified software.
- Setup and manage scripted demos with potential vendors. Facilitate follow-up demos.
- Assist with final evaluations and proposal analysis.
- Determine the need for implementation partners and assist with possible selection of such partner(s).
- Assist with vendor contract reviews and conduct final contract negotiations.
- Help with product implementation by developing an implementation plan in cooperation with the vendor(s). Monitor the implementation plan to ensure all deliverables are met.

SUBMITTAL REQUIREMENTS

The proposal shall be limited to 15 pages, organized in the following format and shall include the following information:

(1) Cover Letter

The cover letter is to be signed by an officer of the firm authorized to execute a contract with MARC and should include the following company information:

- Company's legal name, address and telephone number
- Number of years in business
- Number of employees

(2) General Qualifications

Provide a summary of the firm's qualifications demonstrating your expertise, understanding and ability to accomplish MARC's primary objectives; and general information about the firm to include the location of office(s), years in business and areas of expertise. (Indicate whether there is an office/physical presence in the Kansas City metropolitan region.)

(3) Key Staff

Identify key staff to be assigned to this project and include a description of their abilities, qualifications and experience.

(4) Project Specific Approach and Methodology

Describe your understanding of the project and your proposed approach. Feel free to provide suggestions which might enhance the results or usefulness of the project. Include a specific proposed project schedule for Phase 1 (as identified within the scope

of services/deliverables section) describing the various steps. Also include a sample timeline and approach for one selection process, as described in Phase 2.

(5) Partnerships

Disclose any partnerships with software vendors, including arrangements with financial incentives or interest with software vendors.

(6) References

Provide three references for your firm including the names, addresses, email addresses and telephone numbers of recent clients, preferably public sector agencies, for which you have done similar work. Feel free to include links for similar planning documents prepared for other clients.

(7) Cost Proposal

Provide an hourly rate(s) and estimated number of hours to complete the work in Phase 1. Realizing this is difficult to assess, a range of costs and hours may be included. No cost is needed for Phase 2(s), but it will be assumed that that hourly rate(s) shown for Phase 1 will apply to Phase 2 unless otherwise stated.

(8) Agreement

Include a statement that the firm is willing to enter into MARC's Professional Services Agreement subject to negotiation of a scope and fee. Please note any aspects of the agreement with which you cannot comply or request modification. (An example copy is attached). The initial agreement will only include Phase 1 scope of services.

QUESTIONS

A pre-selection conference will occur via Zoom on September 21 at 1:30 p.m. A brief presentation will be given and then MARC staff will respond to questions. Documentation of the questions and responses will be retained and will be included in an updated RFP post on MARC website and DemandStar. Firms interested in participating should email cgonzales@marc.org by noon on September 19 to receive the meeting invite.

TIME OF RESPONSE

Responses to this Request for Proposal should be directed to Carol Gonzales no later than 5 p.m. on October 3. Responses should be submitted in a PDF electronic format to Carol Gonzales at cgonzales@marc.org and a cc to: sasan@marc.org.

Note: It is your responsibility to verify the receipt of RFP Response as there is always the possibility of emails getting blocked by MARC's firewall/spam filter.

SELECTION

Each proposal will be reviewed to ensure that the firm submitted a transmittal/cover letter, a narrative proposal that is responsive to MARC's requirements as set forth in this RFP. The

selection team will review all proposals received and identify the top candidates. The team will evaluate proposals on various qualifications, including but not necessarily limited to:

- Knowledge, expertise and experience of key staff in the execution of the services required
- Availability of key staff and resources
- Experience and demonstrated competence of similar projects, especially public and non-profit clients
- Demonstrated understanding of project scope and MARCs primary objectives
- Approach and methodology as it relates specifically to achieving MARC’s primary objectives
- Efficiency of the timeline to accomplish Phase 1
- Completeness and quality of proposal
- Quality of references
- Scope of services for the cost

MARC may conduct interviews of some, all, or none of the firms submitting proposals. MARC reserves the right to waive technical irregularities in submissions or to reject any or all proposals if to do so is in the best interest of MARC.

MARC staff may contact respondents with questions regarding the contents of proposals and to ask for clarifications during the evaluation process. MARC is not under obligation to select the lowest priced proposal. MARC reserves the right to accept or reject any proposal or part of any proposal for any reason, or no reason, without recourse by any proposer and to award a contract to any vendor on any basis which MARC, in its sole and absolute discretion, determines to be in the best interest of MARC. Proposals will remain in effect for a minimum of 60 days.

SELECTION SCHEDULE

The following schedule will be used. Other than the Deadline for Proposal Submittal, the selection dates may vary, but will generally follow this schedule.

Request for Proposal Issued	September 11
Pre-Selection Conference	September 21, 1:30 p.m.
Deadline for Proposal Submittal	October 3, 5 p.m.
Evaluation of Proposals	Week of October 2
Possible Interviews of top firms	Week of October 9
Informal Selection and Refinement of Terms	Week of October 16
Approval by MARC Board (if required)	October 24
Work Commence	October 25

ENGAGEMENT

This Request for Proposal does not commit MARC to award a contract or to pay costs incurred in the preparation of a response to this Request for Proposal. MARC reserves the

right to accept or reject any or all responses received as a result of this request if it is considered in the best interest of MARC. MARC may require the proposer selected to participate in negotiations, to refine the Scope of Work and Deliverables to fit within the allocated budget.

OTHER KEY INFORMATION

Open Records Act and Proprietary Information

The Mid-America Regional Council (MARC) is a public organization and is subject to the Missouri Open Records Act (Chapter 610, RSMo). All records obtained or retained by MARC are considered public records and are open to the public or media upon request unless those records are specifically protected from disclosure by law or exempted under the Missouri Sunshine Law. All contents of a response to a Request for Proposals, Qualifications, Proposals or information issued by MARC are considered public records and subject to public release following decisions by MARC regarding the request for proposal. If a proposer has information that it considers proprietary, a proposer shall identify documents or portions of documents it considers containing descriptions of scientific and technological innovations in which it has a proprietary interest, or other information that is protected from public disclosure by law, which is contained in a Proposal. After either a contract is executed pursuant to the Request for Proposal, or all submittals are rejected, if a request is made to inspect information submitted and if documents are identified as "Proprietary Information" as provided above under Missouri Sunshine Law, MARC will notify the proposer of the request for access, and it shall be the burden of the proposer to establish that those documents are exempt from disclosure under the law."

Protest Procedures

If, in the course of this request for proposals vendor selection process, any actual or prospective respondent is aggrieved in connection with the solicitation or award of a contract may protest the process in the manner provided in Section 11.2 of MARC's Purchasing Policy which will be made available upon request.

**SAMPLE
PROFESSIONAL
SERVICES
AGREEMENT**

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is by and between Mid-America Regional Council, hereinafter referred to as "MARC", and [_____] ("Consultant"), and is effective this ___ day of _____, 20__.

Background

MARC desires to retain Consultant to [_____] (the "Project"); and Consultant represents that it has the personnel with technical expertise, experience and knowledge to perform such work for MARC.

Agreement

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. SCOPE OF SERVICES

Consultant shall perform and accomplish in a manner satisfactory to MARC those tasks described in Exhibit A (the "Services"), which are incorporated herein by reference. The Consultant shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession who is currently practicing under similar circumstances. Consultant represents and warrants that all Services will meet the any specifications set forth in Exhibit A. In the event that Exhibit A does not include express specifications for the Services, Consultant represents and warrants that the Services and any Work Product (as defined in Section 6) will be reasonably satisfactory to MARC in all material respects.

2. TIME OF PERFORMANCE

- A. Term - Consultant shall begin performing the Services [on or prior to _____, 20__] or [upon the issuance of a written Notice to Proceed by MARC], and shall work diligently to complete the Project to the satisfaction of MARC, in accordance with the terms provided herein [by _____, 20__].
- B. Extension of Term - The time frame for the completion of the Project under this Agreement may be extended at MARC's sole discretion upon request by the Consultant. Any request for an extension of time to complete the Project shall be made in writing to MARC. The Consultant shall provide to MARC, upon request, documentation to substantiate the justification for additional time needed to complete the Project. MARC shall provide the Consultant with written notice of its decision within fifteen (15) days of the date that MARC received the written extension request.

3. COMPENSATION

- A. Maximum Obligation - During the term of this Agreement, the compensation paid by MARC to Consultant for all Services specified herein relating to the Project

shall not exceed \$_____. ATTACHMENT A to this Agreement provides an itemized list of the relevant compensation for each type of Service provided hereunder. MARC shall be entitled to deduct and setoff against all compensation that may otherwise become due under this Agreement the sums paid by MARC to cure or correct any of Consultant's defaults.

B. Method and Time of Payment - Payment shall be made in the following manner:

- (i) Consultant shall submit monthly invoices to MARC for work completed to date. All such invoices shall (a) provide an itemization of Services performed during the previous month, (b) indicate the percentage of each Service that has been completed by Consultant as of the date of the invoice, (c) indicate the total amount charged for each Service during the previous month, (d) indicate the time spent by each of the Consultant's employees and approved subcontractors assigned to the Project during the previous month, and (e) provide a summary of all other direct and indirect costs incurred by Consultant during the previous month that pass to MARC pursuant to the terms of this Agreement. All such invoices will be based on actual cost incurred.
- (ii) MARC shall reimburse Consultant within thirty (30) calendar days after the receipt of each invoice.
- (iii) Consultant shall maintain complete records of all costs incurred under this Agreement. All such records shall be maintained on a generally accepted accounting basis for a minimum period of five (5) years after final payment is made under this Agreement and shall be clearly identifiable and readily accessible to authorized representatives of MARC for inspection and audit.
- (iv) MARC may withhold [__ percent (__%)] or [the greater of \$_____ or ___ percent (__%)] from the final invoice provided by Consultant. Such amount shall be paid to Consultant within thirty (30) days of the date that (a) Consultant has completed all of the Services contemplated herein to the sole satisfaction of MARC, and (b) MARC has accepted the final work product of Consultant.
- (v) The Consultant shall provide MARC with a copy of its drug-free workplace policy statement prior to MARC processing the first invoice for Services under this Agreement.

C. Compensation After Termination - In the event that this Agreement is terminated as provided below, the Consultant shall be compensated for all hours worked and other expenses incurred under this Agreement prior to the date of receipt of the termination notice or other termination date specified in such notice. The Consultant and any of its subcontractors, agents and legal representatives agree to accept this amount of compensation in full satisfaction of all claims for

compensation under this Agreement.

4. **CHANGES AND ADDITIONAL SERVICES**

This Agreement constitutes the entire agreement between MARC and Consultant and it may not be amended or altered in any way except by a written amendment signed by both parties to this Agreement; provided, however, that at any time during the term of this Agreement MARC, by written notice to Consultant, may modify the scope of the Services to be furnished by Consultant under this Agreement. If such modification causes an increase or decrease in the amount of Services to be provided by Consultant or in the amount of time required for their performance, equitable adjustment shall be made to the provisions of this Agreement for payments to Consultant.

5. **TERMINATION**

- A. MARC reserves the right to terminate this Agreement at any time with or without cause by giving Consultant advance written notice of such termination.
- B. In the event of any such termination, the Consultant shall deliver to MARC, as the property of MARC, all designs, reports, drawings, studies, estimates, computations, memoranda, documents, and other papers or materials either furnished by MARC or prepared by or for the Consultant under this Agreement.

6. **COPYRIGHT AND OWNERSHIP OF DOCUMENTS**

No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of Consultant. Ownership of all designs, reports, drawings, studies, estimates, models, computations, and other related items ("Work Product") prepared under this Agreement shall vest in MARC upon payment to the Consultant for all Services rendered herein through the date of the expiration or termination of this Agreement. Consultant hereby assigns to MARC all right, title and interest in any Work Product, including any copyrights or other intellectual property therein.

7. **ASSIGNMENT**

The Consultant's rights, obligations and duties under this Agreement shall not be assigned in whole or in part without the prior written consent of MARC. However, claims for money due to the Consultant from MARC under the terms of this Agreement may be assigned to a bank, trust company or other such financial institution, provided that prompt written notice of such an assignment is given to MARC. None of the Services covered by this Agreement shall be subcontracted without the prior written approval of MARC.

8. **INDEPENDENT CONTRACTOR**

Consultant will act as an independent contractor in the performance of the Services under this Agreement. Accordingly, Consultant shall be responsible for the payment of all required business license fees and all taxes including Federal, State and local taxes arising from Consultant's activities under the terms of this Agreement.

9. **PROHIBITED INTERESTS**

No officer, member or employee of MARC, no member of MARC's governing body and no other public official of the locality or localities in which the Project is being carried out who exercises any functions or responsibilities in the review and approval of this Project shall participate in any decision related to this Agreement affecting, either directly or indirectly, his or her own personal interest. No member of or delegate to the Kansas Legislature, the Missouri General Assembly or the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising from it.

10. **CONFLICTS OF INTEREST**

A. Consultant hereby certifies that the company and any personnel assigned to work for MARC under this Agreement are not involved in other community projects that would pose a conflict to the Consultant's ability to successfully carry out the responsibilities of this Agreement. If potential conflicts arise during the term of this Agreement, the Consultant agrees to notify MARC immediately in writing and discuss the potential issues and work with MARC to address any potential issues arising from the situation.

B. The Consultant covenants that it presently has no known personal or pecuniary interest and shall not knowingly acquire such interest, directly or indirectly, which could conflict in any manner with the performance of Services under this Agreement, including the submission of impartial reports and recommendations.

11. **INSURANCE**

A. The Consultant shall maintain commercial general liability, automobile liability, worker's compensation and employer's liability insurance in full force and effect to protect the Consultant from claims under Worker's Compensation Acts, claims for damages for personal injury or death, and for damages to property arising from the negligent acts, errors, or omissions of the Consultant and its employees, agents, and subconsultants in the performance of the Services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.

B. The Consultant shall also maintain professional liability insurance to protect the Consultant against the negligent acts, errors, or omissions of the Consultant and those for whom it is legally responsible, arising out of the performance of the Services under this Agreement.

- C. The Consultant's insurance coverages shall be for not less than the following limits of liability:
- (i) Commercial General Liability: \$500,000.00 per claim up to \$2,000,000.00 per occurrence;
 - (ii) Automobile Liability: \$100,000.00 per claim up to \$2,000,000.00 per occurrence;
 - (iii) Worker's Compensation in accordance with the statutory limits; and Employer's Liability: \$1,000,000.00; and
 - (iv) Professional Liability (Errors and Omissions): \$1,000,000.00, each claim and in the annual aggregate.
- D. The Consultant shall, upon request at any time, provide MARC with certificates of insurance evidencing such policies and confirming that they are all in full force and effect as required by this Agreement. All such policies shall name MARC as an additional insured.
- E. Any insurance policy required hereunder shall be written by a company which is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.
- F. As between Consultant and MARC, the parties waive any and all rights against each other, including their rights of subrogation, for damages covered by property insurance during and after the completion of Services under this Agreement.

12. **FEDERAL AND STATE TERMS AND CONDITIONS**

This Agreement shall be subject to all applicable Federal Terms and Conditions provided in Exhibit B attached hereto and incorporated herein by reference.

Consultant shall be responsible for ensuring compliance with the Immigration Reform Act of 1986 and all laws regulating immigration and the verification of eligibility for employment of persons. All Consultants and sub-contractors with contract amounts in excess of \$5,000 on public projects in Missouri are required to verify the employment eligibility status of employees through the E-verify federal program administered by the Department of Homeland Security, U.S. Citizenship and Immigration Services. Compliance with any such requirements are required under this Agreement and any subcontracts permitted hereunder. Consultant shall indemnify, defend and hold harmless MARC against any expense incurred including imposition of fines which results from violation of such laws. Consultant affirmatively states that it is not knowingly in violation of R.S. Mo. 285.530.1 and shall not henceforth be in such violation. Consultant further agrees to execute a sworn affidavit, under the penalty of perjury attesting to the fact that the Consultant's employees are lawfully present in the United States. Failure of Consultant to comply with this requirement shall be grounds for termination for default.

13. **INDEMNIFICATION**

Consultant expressly agrees to defend, indemnify, and hold and save harmless MARC, its officers, agents, servants and employees for liability of any nature (including, without limitation, reasonable attorneys' fees) related to (i) a breach of this Agreement by Consultant, (ii) the Services provided under this Agreement by Consultant or arising from any act or omission of Consultant or of any employee or agent of Consultant; or (iii) infringement or misappropriation or allegation of infringement or misappropriation of any patent, copyright, trade secret, trademark or other proprietary right of any third party relating to any deliverable provided or service performed by Consultant .

14. **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION**

MARC, as a non-federal entity utilizing federal funds, is prohibited from contracting with or making subawards under covered transactions to parties that are suspended, debarred or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities, or whose principals are suspended, debarred or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 (e.g., subawards to subrecipients). Consultant hereby agrees to provide MARC with a copy of the signed Certificate Regarding Debarment and Suspension, attached hereto as Exhibit C and incorporated herein by reference, to ensure that these federal rules are followed.

15. **CONFIDENTIALITY**

- A. Except as is necessary in the performance of this Agreement, or as authorized in writing by the other party, the parties shall not disclose to any person, institution, entity, company, or other third party any information directly or indirectly related to the parties that the other party (or its employees, agents and contractors) receives as a result of performing its obligations under this Agreement, or of which it is otherwise aware.
- B. The parties (and their employees, agents and contractors) shall not disclose, except to each other, any proprietary information, professional secrets or other information, records, data and data elements (including, but not limited to, protected health information) collected and maintained in the course of carrying out the responsibilities under this Agreement, unless such party receives prior written authorization to do so from the other party or as required by law.
- C. All confidential obligations contained herein (including those pertaining to information transmitted orally) shall survive the termination of this Agreement. The parties shall ensure that their respective employees, agents and contractors are aware of and shall comply with the aforementioned obligations.
- D. MARC is a public governmental body subject to the provisions of Missouri's Sunshine Law, Sections 610.010 through 610.030 RSMo. As such, MARC is

required to allow citizens to inspect and copy District documents deemed to be “public records” under the law. Nothing herein shall prohibit MARC from satisfying a request to inspect and copy documents if legal counsel for MARC is of the opinion that such documents are “public records.”

16. **DEFAULT**

In the event there is a default with respect to any of the provisions of this Agreement or its obligations under it, the non-defaulting party shall give the defaulting party written notice of such default. After receipt of such written notice, the defaulting party shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default, provided the defaulting party shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the defaulting party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The non-defaulting party may not maintain any action or effect any remedies for default against the defaulting party unless and until the defaulting party has failed to cure the same within the time periods provided in this paragraph.

17. **GOVERNING LAW**

This Agreement shall be interpreted under and governed by the laws of the State of Missouri. Whenever there is no applicable state statute or decisional precedent governing the interpretation of this Agreement, then federal common law shall govern.

18. **NOTICES**

Any action by MARC under this Agreement may be taken by [David A. Warm, Executive Director], or such other person as MARC may designate for such purpose by written notice to Consultant. All compensation and written notices to Consultant shall be considered to be properly given if mailed, delivered in person, emailed or transmitted by facsimile machine to:

All invoices, written reports and written notices given to MARC shall be considered to be sufficiently given if mailed, delivered in person, e-mailed or transmitted by facsimile machine to:

[_____]
Mid-America Regional Council
600 Broadway, Suite 200

Kansas City, Missouri 64105-1659
E-mail Address:
FAX (816) 421-7758

19. **ENTIRE AGREEMENT**

This Agreement cancels and supersedes all previous discussions, negotiations, understandings, representations, warranties and agreements, written or oral, relating to the subject matter of this Agreement, and contains the entire understanding of the parties hereto.

20. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which is deemed to be an original and all of which constitute one agreement that is binding upon all of the parties hereto, notwithstanding that all parties are not signatories to the same counterpart.

[signatures on the following page]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the dates set forth below.

MID-AMERICA REGIONAL COUNCIL [_____]

By: _____
[David A. Warm]
[Executive Director]

Date: _____
"MARC"

By: _____
[Fill in name]
[Fill in title]

Date: _____
"Consultant"

Exhibit A

Scope of Services

Exhibit B

Federal Terms and Conditions

1) **NONDISCRIMINATION (49 CFR Part 21)**. During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest, agrees as follows:

A. Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are hereby incorporated by reference and made a part of this Agreement.

B. Consultant, with regard to the Services performed by it during the term of this Agreement, shall not discriminate on the grounds of age, race, color, sex or national origin in the selection or retention of subconsultants, including procurement of materials and leases of equipment. Consultant shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix "B" of the Regulations.

C. In all solicitations, whether by competitive bidding or negotiation, made by the Consultant for services to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of age, race, color, sex or national origin.

D. The Consultant shall provide all information and reports required under the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, and other sources of information, and its facilities as may be determined by MARC to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information is required, or such information is in the exclusive possession of another that fails or refuses to furnish this information, the Consultant shall so certify to MARC, and shall set forth what efforts it has made to obtain the information.

E. In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, MARC shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to: (i) Withholding of payments to the Consultant under the Agreement until the Consultant complies; and/or (ii) Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. The Consultant shall include the provisions of Paragraphs A through E above in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as MARC may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request MARC to enter into such litigation to protect the interests of MARC.

2) **AMERICANS WITH DISABILITIES ACT**. Consultant shall comply with applicable provisions of the Americans with Disabilities Act of 1991, as amended. In particular, Consultant shall assist MARC in compliance by including appropriate language in all public documents and reports notifying persons with disabilities of MARC's policy of providing accommodations (i.e. interpreter, large print, reader and hearing assistance) to persons who need such assistance to participate in the Project.

3) **AFFIRMATIVE ACTION IN EMPLOYMENT**. The Consultant shall comply with the provisions of Section 503 of the Rehabilitation Act of 1973, as amended (the "Act"), and also agrees as follows:

A. The Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other form of compensation, and selection for training, including apprenticeship.

B. The Consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor pursuant to the Act.

C. In the event of the Consultant's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor pursuant to the Act.

D. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the Consultant's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

E. The Consultant will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Consultant is bound by the terms of the Act, and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.

F. The Consultant will include the provisions of Paragraphs A through E above in every subcontract or purchase order of \$2,500.00 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding on each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance (41 CFR 60-741.4.4).

4) **EQUAL EMPLOYMENT OPPORTUNITY (41 CFR Part 60-1.4(b))**. During the performance of this Agreement, the Consultant agrees as follows:

A. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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

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

D. The Consultant shall comply with all provisions of Executive Order 11246 of September 24, 1965, and by rules, regulations, and relevant orders of the Secretary of Labor.

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

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

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

G. The Consultant will include the portion of the sentence immediately preceding Paragraph A and the provisions of Paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as MARC may direct as a means of enforcing such provision, including sanctions for noncompliance, provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Consultant may request MARC to enter into such litigation to protect the interests of MARC.

5) **PROHIBITION AGAINST SUBSTANCE ABUSE.**

The Consultant shall comply with the requirements of the Omnibus Drug Initiative Act of 1988 (Public Law 100-690), as amended, and certify to MARC that it will provide a drug-free workplace.

6) **LOBBYING.** The Consultant hereby certifies that the federal funds provided under the terms of this Agreement will not be paid, by or on behalf of the Consultant, to any person to influence an officer or employee of any federal agency or federal elected official. The Consultant will provide full disclosure of any non-federal resources expended to lobby any federal official in connection with the Project.

Exhibit C

Certificate Regarding Debarment and Suspension

Consultant hereby certifies to the best of its knowledge and belief that it and its principals, affiliates and approved subcontractors:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- B. Have not within a three (3) year period preceding the date of the Agreement been convicted of or had a civil judgment rendered against them for commission of (i) fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, (ii) a violation of Federal or State antitrust statutes, or (iii) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- D. Have not within a three (3) year period preceding the date of the Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

In the event Consultant is unable to certify to any of the statements in this certification, the Consultant shall attach an explanation to this certification that must be approved in writing by MARC prior to the commencement of the Agreement.

[_____]

By: _____
[Fill in name]
[Fill in title]

Date: _____

“Consultant”