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|  | <b>Ramsey/Washington Recycling<br/>&amp; Energy Board</b> | Ramsey/Washington<br>Recycling & Energy Board<br>2785 White Bear Ave.<br>Suite 350<br>Maplewood, MN 55109 |
|   | <b>Request For Proposals</b>                              |   |

**Materials and/or Service:** Industrial Hygiene Monitoring Services

**Solicitation Due Date:** August 11, 2017      **Time:** 4:00 pm (Central Time)

**Mailing, Third-Party Carrier (FedEx, UPS, etc.) and Hand-Submitted Proposals Address:**

Attn: Kelli Hall  
 Ramsey/Washington Recycling & Energy Board  
 2785 White Bear Avenue, Suite 350  
 Maplewood, MN 55109

All Offers must be received by Ramsey/Washington Recycling & Energy Board (R&E Board) at the specified location by the date and time cited above. Late Offers will not be considered. The mere fact that the Proposal was dispatched will not be considered; the firm must ensure that the Proposal is actually delivered. Regardless of cause, late qualifications will not be accepted and will automatically be disqualified from further consideration. It shall be the Offeror's sole risk to assure delivery at the designated office by the designated time. Late qualifications will not be opened and may be returned to the Offeror at the expense of the Offeror or destroyed if requested. Except for trade secrets and confidential information which the Firm identifies as proprietary, all Proposals will be open for public inspection after the contract award. Vendors are advised to carefully read the entire Solicitation Package. Offers that do not comply with all Instructions contained herein may be disqualified.

**OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.**

All communications concerning this solicitation must be directed to the person identified within this solicitation in Table 02. Communications with other R&E Board staff may disqualify you from the evaluation process.

## Industrial Hygiene Monitoring Services

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## 1.0 RFP Introduction and Background

### 1.1 Introduction

This Request for Proposals (RFP) is intended to solicit proposals from qualified vendors for industrial hygiene monitoring services for the Ramsey/Washington Recycling and Energy Board (R&E Board). The R&E Board owns the Recycling and Energy Center (R&E Center), a waste processing facility. The R&E Board seeks a Contractor who will work with R&E Center staff to provide noise monitoring, air sampling, analysis of sampling results, and reports with conclusions and recommendations. Proposers' responses will be evaluated and ranked based on the criteria described in this RFP. If a service is available that meets the R&E Board's needs, the R&E Board may then enter into contract discussions with the selected proposer(s).

In addition to soliciting written responses, this document provides information to assist proposers in preparing their responses and facilitates the subsequent evaluation and comparison process. In that regard, this RFP:

- Provides information essential to soliciting meaningful recommendations and realistic commitments from the proposers;
- Specifies the desired format and content of proposals in response to this RFP;
- Outlines the R&E Board's evaluation and selection procedures;
- Establishes a schedule for the preparation and submission of proposals in response to this RFP; and,
- Establishes a performance standard for the selected proposer.

This RFP and the selected proposal(s) in response to this RFP will be incorporated into the contract resulting from this solicitation; provided, however, that the contract may contain terms different from or in addition to this RFP and the successful proposal. For purposes of this RFP, the term "vendor," "contractor," "offeror," and "proposer" are considered to have the same meaning.

### 1.2 About the Ramsey/Washington Recycling & Energy Board

The Ramsey/Washington Recycling & Energy Board is a public sector Joint Powers Board that owns the Recycling & Energy Center (R&E Center), a Refuse Derived Fuel (RDF) processing facility in Newport, Minnesota. It is currently operated by Great River Energy Newport Services (GRENS). The facility has been in commercial operation since 1987, and was developed in a partnership between Ramsey and Washington Counties and Northern States Power Company (NSP). The facility processes mixed municipal solid waste into five streams: ferrous metals, non-ferrous metals, refuse derived fuel (RDF), process residue, and non-processible bulky waste. The facility currently processes over 400,000 tons of municipal solid waste per year. The facility is a 24/7/365 facility. There are three shifts per day: two operating shifts and one maintenance shift. Most weeks, the plant operates six days per week. There are 60 total employees with 48 of those working on the processing floor.

### 1.3 RFP Schedule of Events

The following RFP Schedule of Events represents the best estimate of the schedule the R&E Board will follow. The R&E Board has performed extensive planning work and has planned to meet the dates described below. Vendors are encouraged to hold the demonstration dates listed. If a component of the schedule is delayed, it shall be anticipated that the remaining components will also be delayed by a similar number of days. Any significant change to the schedule will be published via RFP Addendum.

**Table 01: RFP Schedule of Events**

| <b>Event</b>                           | <b>Estimated Date</b>        |
|--|------------------------------|
| Request for Proposals Released         | July 10, 2017                |
| Deadline for Questions From Vendors    | July 21, 2017 @ 4:00pm CST   |
| Final Addendum for Questions Published | July 26, 2017                |
| Deadline for Proposal Submissions      | August 11, 2017 @ 4:00pm CST |
| Proposal Evaluation Period             | Week of August 14, 2017      |
| Contract Negotiations and final award  | By early September           |

**1.4 Minimum Qualifications**

In order for proposals to be evaluated and considered for award, proposals must be deemed responsive. To be deemed responsive, the submitted proposal documents shall conform in all material respects to the requirements stated by the RFP, and, proposers shall document and validate the capability to fully perform all requirements defined by the RFP. Factors to be considered include, and may not be limited to: experience, integrity, reliability, capacity and other factors required to provide the services defined by the RFP.

**1.5 Incurred Expenses**

There is no express or implied obligation for the R&E Board to reimburse responding firms for any expenses incurred in preparing Proposals in response to this Request for Proposal and the R&E Board will not reimburse responding firms for these expenses, nor will the R&E Board pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

**1.6 Questions and Inquiries**

It shall be the responsibility of the Proposer to inquire about any portion of the RFP that is not fully understood and susceptible to more than one interpretation. Written inquiries are required. All questions concerning the RFP must reference the page number, section heading, and paragraph, if applicable. Questions may be submitted via email and Proposers shall insert "R&E Board Industrial Hygiene Monitoring Services RFP Question" in the subject line. Oral communications will not be accepted. The following table provides the primary contact information.

**Table 02: Point of**

| <b>Contact Point of Contact</b>  |
|--|
| Kelli Hall<br><a href="mailto:kelli.hall@co.ramsey.mn.us">kelli.hall@co.ramsey.mn.us</a> |

Questions and inquiries related to this RFP, including questions and inquiries related to technical issues are to be submitted in writing via email and directed to the Point of Contact using the contact information in Table 02 above. Proposers shall not contact any other R&E Board or GRENS staff with any questions or inquiries. Unauthorized contact with any personnel of the R&E Board or GRENS other than staff listed in Table 02, may be cause for rejection of the Proposer's response. The decision to reject a Proposal is solely that of the R&E Board.

In accordance with the RFP Schedule of Events in Section 1.3, all questions must be received in writing no later than July 21, 2017 at 4:00pm Central Time. Questions and answers will be issued in accordance with Section 1.8, Amendments and Addenda.

### **1.7 Clarification and Discussion of Proposals**

The R&E Board may request clarifications and conduct discussions with any Proposer who submits a Proposal. Failure of a vendor to respond to such a request for additional information or clarification may result in rejection of the vendor's proposal.

### **1.8 Amendments and Addenda**

All clarifications and RFP revisions will be documented in an addendum and published to the R&E Board's website. The R&E Board will attempt to publish periodic addenda on a timely basis between the RFP publishing date and the date of the final addendum on July 26, 2017 as needed.

Only questions and answers documented in an addendum shall be binding. Proposers shall acknowledge each addendum issued on the Solicitation Response Form (Attachment 1) which shall be signed and returned with proposers' responses. The R&E Board reserves the right to revise the RFP prior to the deadline for proposal submissions on August 11, 2017. Revisions shall be documented in an addendum and published to the R&E Board website.

## 2.0 Scope of Services

### 2.1 The Contractor shall:

1. Provide personal and area monitoring for noise and airborne contaminants at the R&E Center.
2. Develop an annual or bi-annual monitoring plan for the R&E Center.
3. Monitoring plan shall be developed using industry best practices and shall include regularly scheduled industrial hygiene sampling to determine presence of contaminants including:
  - a. Asbestos fibers
  - b. Silica
  - c. Mold
  - d. Toxic Metals
  - e. Airborne Mercury
  - f. Diesel exhaust
  - g. Nitrogen dioxide
  - h. Nitric Oxide
  - i. Carbon monoxide
  - j. Formaldehyde
  - k. Volatile Organic Compounds
  - l. Noise
  - m. Total Dust
  - n. Respirable Dust
  - o. Bacteria
  - p. Pesticides

Testing shall be completed on all three shifts to allow for accurate measurement of exposure.

4. Provide industrial hygiene sampling in addition to regularly scheduled monitoring as needed. Several changes are planned for the R&E Center over the next several years, and more frequent monitoring may be needed periodically.
5. Provide tailpipe exhaust carbon monoxide monitoring for eight vehicles once annually.
6. Provide analysis of all samples collected by a laboratory certified by the State of Minnesota.
7. Provide staff who are Certified Industrial Hygienists by the American Board of Industrial Hygiene.
8. Utilize Occupational Safety and Health Administration (OSHA) and National Institute for Occupational Safety and Health (NIOSH) methods for OSHA compliance.
9. Provide reports on sampling results, air quality standards, and conclusions based on the results. Recommendations for resolution of any air quality problems shall be included in the reports.

## **3.0 Proposal Evaluation and Award**

### **3.1 Evaluation Process**

An R&E Board evaluation team will initially review and evaluate each proposal received to determine the proposer’s ability to meet the requirements of the R&E Board. The evaluation criteria described in Section 3.2 may be the basis for evaluation.

The evaluation team will determine the vendors best suited to meet the needs of the R&E Board based on the scoring of the evaluation criteria.

The R&E Board may request additional information or clarification of proposals and hereby reserves the right to select the particular response to this RFP that it believes will best serve its business and operational requirements, considering the evaluation criteria set forth below.

### **3.2 Evaluation Criteria**

The evaluation criteria in the following table are intended to be the basis by which each proposal will be evaluated, measured, and ranked. The R&E Board hereby reserves the right to evaluate, at its sole discretion, the extent to which each proposal received compares to the stated criteria. The recommendation of the Evaluation Committee shall be based on the evaluations using the criteria.

**Table 03: Evaluation Criteria**

| <b>Criteria</b>                                  | <b>Description</b>  | <b>Maximum Score</b> |
|--|---|----------------------|
| Cost   | This criterion considers the price of the services solicited by this RFP. Proposers will be evaluated on their pricing scheme as well as on their price in comparison to the other proposers. | 45                   |
| Experience of firm and personnel                 | This criterion considers the Proposer’s experience in providing the services solicited by this RFP as set forth in the Proposer’s response.   | 15                   |
| Project Staff Qualifications                     | This criterion considers the qualifications and certifications of Proposer’s staff who shall provide services to meet the RFP requirements and R&E Board’s service needs.                     | 20                   |
| Demonstrated understanding of scope and approach | This criterion considers the Proposer’s understanding of the R&E Board’s service needs and its approach to providing services to meet those needs.  | 20                   |

### **3.3 Notice of Intent Award**

After the completion of contract negotiations, the R&E Board may issue a written Notice of Intent to Award to the successful proposers. The scores and placement of other proposers will not be part of the Notice of Intent to Award.

Successful proposers are advised not to begin work or enter into subcontracts relating to the project until both the successful proposer and the R&E Board sign the contract.

### **3.4 Negotiations and Contract Execution**

The R&E Board reserves the right to negotiate the final terms and conditions of the contract to be executed. In the event the R&E Board and the vendor are unable to agree upon all contract provisions, the R&E Board reserves the right to cease negotiations, and to move on to select another vendor, or to reject all Proposals.

### **3.5 Contracting Ethics**

1. It is a breach of ethical standards for any person to offer, give, or agree to give any R&E Board employee or Committees, Commissions, and Boards person, or by R&E Board Policy, for any R&E Board employee, or Committees, Commissions, and Boards person to solicit, demand, accept, or agree to accept from another person or agency, a gratuity or an offer of employment whenever a reasonable prudent person would conclude that such consideration was motivated by an individual, group, or corporate desire to obtain special, preferential, or more favorable treatment than is normally accorded the general public.
2. The Vendor shall not assign any interest in this contract and shall not transfer any interest in the same without the prior written consent of the R&E Board.
3. The Vendor shall not accept any private client or project that may place it in ethical conflict during its representation of the R&E Board.

### **3.6 No Obligation, Right of Rejection, and Multiple Award**

The inquiry made through this RFP implies no obligation on the part of the R&E Board.

The R&E Board reserves the right to reject any proposal, in whole or in part. Proposals received from debarred or suspended vendors will be rejected. The R&E Board may reject any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of this RFP.

The R&E Board further reserves the right to award all, part, or none of the services included in this RFP or a Proposer's proposal. In addition, the R&E Board reserves the right to make one or more awards to competing Proposers for subsets of functionality as a result of this RFP.

The R&E Board reserves the right to reject any proposal determined to be non-responsive. The R&E Board also reserves the right to refrain from making an award if it determines it to be in its best interest.

## 4.0 Submittal Response Format

### 4.1 General Instructions

It will be the sole responsibility of the Proposer to submit its Proposal to the R&E Board before the closing deadline. Late Proposals will not be considered and will be returned unopened to the Proposer.

The R&E Board reserves the right to reject any or all Proposals or parts of Proposals, to accept part or all of Proposals on the basis of considerations other than lowest cost, and to create a project of lesser or greater expense than described in this RFP or the respondent's reply based on the component prices submitted.

The R&E Board reserves the right to cancel this solicitation or to change its scope if it is considered to be in the best interest of the R&E Board. The R&E Board reserves the right to waive irregularities in the Proposal content or to request supplemental information from Proposers.

The following instructions must be followed by Proposers submitting Proposals:

1. The deadline for Proposal submissions is established in Section 1.3, RFP Schedule of Events. The Proposal deadline is August 11, 2017 at 4:00 p.m. Central Time. Proposals received at the R&E Board after this deadline will not be accepted and will be returned to Proposer. Late qualifications will not be opened and may be returned to the Offeror at the expense of the Offeror or destroyed if requested.
2. Proposers shall submit one (1) hard copy and/or one (1) electronic copy in searchable Adobe PDF format. Mailed Proposals shall be clearly labeled on the outside of the packaging with the RFP Title. Electronic Proposals shall be submitted to [kelli.hall@co.ramsey.mn.us](mailto:kelli.hall@co.ramsey.mn.us).
3. The mailing addresses for Proposals is contained in the following table.

**Table 04: Proposal Mailing Address**

| <b>R&amp;E Board Mailing Address</b>   |
|--|
| Attn: Kelli Hall<br>Ramsey/Washington Recycling & Energy Board<br>2785 White Bear Avenue<br>Suite 350<br>Maplewood, MN 55109 |

4. The following table contains the organization guidelines for Proposal responses.

**Table 05: Proposal Checklist**

| RPF Attachment Number | Proposal Section   | RFP Section Number |
|-----------------------|--|--------------------|
| -                     | Signed Cover Letter  | 4.2                |
| 1                     | Completed Solicitation Response Form (attached)                    | 4.3                |
| 2                     | Contractor Information and Reference Form (attached)               | 4.4                |
| -                     | Services Approach  | 4.5                |
| -                     | Key Proposed Personnel   | 4.6                |
| -                     | Sub-Contracting  | 4.7                |
| -                     | Project budget estimate and fee schedules                          | 4.8                |
| -                     | Exceptions to Terms and Conditions                                 | 4.9                |
| 3                     | Application for Designation of Trade Secret Information (attached) | 4.10               |

**4.2 Cover Letter**

The first section of the Proposal should be the Cover Letter. The Cover Letter shall be signed by an authorized representative of the company such as the owner, partner, or in the case of a corporation, the President, Vice President, Secretary, or other corporate officer(s).

The Cover Letter must provide the following:

1. Identification of the proposing company, including name, address and telephone number;
2. Name, title, address, telephone and fax numbers, and email address of contact person during period of proposal evaluation;
3. A summary of the company's background and history;
4. A summary of claims brought against the vendor, subcontractors, and proposed personnel during the past five years related to the services being proposed, and the status of each claim.
5. A brief summary of the Proposal contents;
6. A statement to the fact that the proposal shall remain valid for a period of not less than 180 days from the date of submittal; and
7. Signature of a person who is authorized to sign contracts for the company.

The Cover Letter shall be printed on the company's letterhead.

A signature on the Cover Letter hereby provides the R&E Board acknowledgement and acceptance of the "Conditions" and the execution of same during the discharge of any succeeding contract. It shall be clearly understood that by submitting a Proposal in response to this solicitation, a Proposer shall be deemed to have accepted all specifications, terms, and general conditions and requirements set forth in these specifications, terms, general conditions, and requirements unless otherwise clearly noted and explained in this RFP.

#### **4.3 Solicitation Response Form**

The second section of the Proposal should be a completed Solicitation Response Form - Attachment 1.

#### **4.4 Contractor Information and Reference Form**

The third section of the Proposal should be a completed Contractor Information and Reference Form – Attachment 2.

#### **4.5 Project Services Approach**

The fourth section of the Proposal should include a description of the proposed approach for providing the services described in Section 2.0, Project Scope.

#### **4.6 Key Proposed Personnel and Team Organization**

The fifth section of the Proposal should include the resumes of the proposed personnel.

Resumes shall be specific to the actual personnel to be assigned to this Project for all roles. Resumes shall include the following information:

1. Name and title
2. Role on the project
3. Description of project roles and responsibilities
4. Educational background
5. Professional licenses, registrations and memberships
6. Professional references, and
7. Additional relevant information.

#### **4.7 Sub-Contracting**

The sixth section of the Proposal should identify any of the required services that are proposed to be sub-contracted, if any. Sub-contractors added after contract is awarded will need to be submitted in writing to the R&E Board for approval prior to any services being performed by the sub-contractor. For each of these services in which a sub-contractor is currently known, the following should be provided:

1. Summary of service
2. Reasons for sub-contracting
3. Proposed sub-contractor
4. Detailed sub-contractor responsibilities
5. Sub-contractor name
6. Sub-contractor location
7. Sub-contractor experience
8. Previous use of sub-contractor and
9. Any additional relevant information

#### **4.8 Project Budget Estimate and Fee Schedules**

The seventh section of the Proposal should be a proposed budget and schedule of fees for the project. The fees should reflect the per unit costs.

#### **4.9 Exceptions to Terms and Conditions**

The eighth section of the Proposal should include any exception the Proposer takes to the terms and conditions set forth in this RFP. Proposer should identify the areas where they feel the requested service or product is not available, deviates from the specific requests, or is deemed to be an unwise or unwarranted approach. The

Proposer will describe exceptions to the RFP and identify their impact to the R&E Board, including, but not limited to, workarounds, reductions in performance, capacity, flexibility, accuracy, and ultimately cost and value. The R&E Board reserves the right to disallow exceptions it finds are not in the best interests of the R&E Board. Any and all exceptions to the requirements of this RFP must be identified and fully explained in the submitted Proposal. It is the R&E Board's intention to be made aware of any exceptions to terms or conditions prior to contract negotiations.

#### **4.10 Application for Designation of Trade Secret Information**

The ninth section of the Proposal should be a completed Application for Designation of Trade Secret Information – Attachment 3, if applicable.

#### **4.11 Attachments: Required Forms**

1. Attachment 1 – Solicitation Response Form
2. Attachment 2– Contractor Information and Reference Form
3. Attachment 3 – Contractor Application for Designation of Trade Secret Information

## **5.0 Solicitation and Contract Terms and Conditions**

### **5.1 Contract Term**

The Agreement shall be effective January 01, 2018 through December 31, 2020 with the option for one, two-year renewal.

### **5.2 Contract Approval**

This RFP does not, by itself, obligate the R&E Board to award a contract. The R&E Board's obligation will commence following the R&E Board's approval of a contract. Upon written notice to the vendor, the R&E Board may set a different starting date for the contract. The R&E Board will not be responsible for any work done by the vendor, even work done in good faith, if it occurs prior to the contract start date set by the R&E Board.

### **5.3 Contract Dispute**

In the event of contract dispute, dispute proceedings will be held in the State of Minnesota. Mediation will be a mandatory first step in the event of a dispute, prior to any legal action as set forth in the contract.

### **5.4 Possession of Firearms on R&E Board Premises**

Unless specifically required by the terms of this contract, no provider of services pursuant to this contract, including but not limited to employees, agents or subcontractors of the (Vendor or Contractor, depending upon which term is used) shall carry or possess a firearm on R&E Board premises or while acting on behalf of the R&E Board pursuant to the terms of this agreement. Violation of this provision shall be considered a substantial breach of the Agreement; and, in addition to any other remedy available to the R&E Board under law or equity. Violation of this provision is grounds for immediate suspension or termination of this contract.

### **5.5 Indemnification and Hold Harmless**

The Vendor does hereby agree that it will defend, indemnify, and hold harmless the R&E Board, its agents, officers and employees against any and all liability, loss, damages, costs and expenses which the R&E Board may hereafter sustain, incur or be required to pay by reason of any negligent act or omission or intentional act of the Vendor, its agents, officers or employees during the performance of this Agreement.

### **5.6 Insurance Requirements**

The proposer agrees that in order to protect itself, as well as the R&E Board, under the indemnity provisions set forth above, it will at all times during the term of this Agreement, keep in force the following insurance protection in the limits specified:

- Commercial General Liability/Professional Liability with contractual liability coverage in the amount of the R&E Board's tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time.
- Automobile coverage in the amount of the R&E Board's tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time
- Worker's Compensation in statutory amount.

Prior to the effective date of this Agreement, the proposer will furnish the R&E Board with a current and valid proof of insurance certificate indicating insurance coverage in the amounts required by this agreement. This certificate of insurance shall be on file with the R&E Board throughout the term of the agreement. As a condition subsequent to this agreement, the proposer shall insure that the certificate of insurance provided to the R&E Board will at all times be current. The parties agree that failure by the proposer to maintain a current certificate of insurance with the R&E Board shall be a substantial breach of the contract and payments on the contract shall be withheld by the R&E Board until a certificate of insurance showing current insurance coverage in amounts required by the contract is provided to the R&E Board.

Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days' notice thereof to the R&E Board.

## **5.7 Termination**

The R&E Board may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the R&E Board upon the commencement of such proceedings or other action.

If the Contractor violates any material terms or conditions of this Agreement the R&E Board may, without prejudice to any right or remedy, give the Contractor, and its surety, if any, thirty (30) calendar days' written notice of its intent to terminate this Agreement, specifying the asserted breach. If the Contractor fails to cure the deficiency within the thirty (30) day cure period, this Agreement shall terminate upon expiration of the cure period.

The R&E Board may terminate this Agreement without cause upon giving at least thirty (30) calendar days' written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.

## **5.8 Merger**

It is understood and agreed that the entire agreement of the parties is contained herein and this Agreement supersedes all oral agreements and negotiations between the parties relating to this subject matter. All items referred to in this Agreement are incorporated or attached and deemed to be a part of the Agreement.

## **5.9 Conflict of Interest**

Proposer shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which in any manner affect Proposer or the services and/or items to be provided, specifically and not limited to any laws relating to conflicts of interest. Failure to comply with any applicable laws, including the provisions of the Act, may result in: i) the forfeiture by Proposer of all benefits of the Contract; ii) the retainage by R&E Board of all services performed by Proposer and iii) the recovery by the R&E Board of all consideration, or the value of all consideration, paid to Proposer pursuant to any awarded contract.

## **5.10 Pending and Recent Litigation**

Proposers must disclose any pending or recent litigation they are involved in as a company. Recent is defined as the past five years. Information provided should include the timeline of the litigation history, the subject of the litigation, and the current status of the litigation. Proposals must also disclose any pending litigation of any third-party partners in the proposal.

### **5.11 Proposer's Certification**

By signature on the proposal, the proposer certifies that it complies with:

1. The laws of the State of Minnesota and is licensed to conduct business in the State of Minnesota;
2. All applicable local, state and federal laws, codes and regulations;
3. All terms, conditions, and requirements set forth in this RFP;
4. A condition that the proposal submitted was independently arrived at, without collusion; and,
5. A condition that the offer will remain open and valid for the period indicated in this solicitation; and any condition that the firm and/or any individuals working on the contract do not have a possible conflict of interest.

If any proposer fails to comply with the provisions stated in this paragraph, the R&E Board reserves the right to reject the proposal, terminate the contract, or consider the proposer in default.

### **5.12 Offer Held Firm**

Proposals must remain open and valid for at least 180 days from the deadline specified for submission of proposals. In the event award is not made within 180 days, the R&E Board will send a written request to all proposers deemed susceptible for award asking proposers to hold their price firm for a longer specified period of time.

### **5.13 Amendment/Withdrawal of Proposals**

Proposers may amend or withdraw proposals prior to the deadline set for receipt of proposals. No amendments will be accepted after the deadline unless they are in response to a request of the R&E Board. After the deadline, proposers may make a written request to withdraw proposals and provide evidence that a substantial mistake has been made. The R&E Board may permit withdrawal of the proposal upon verifying that a substantial mistake has been made.

### **5.14 Contract Modifications**

Any material alteration, modification or variation shall be reduced to writing as an amendment and signed by the parties. Any alteration, modification or variation deemed not to be material by agreement of the R&E Board and the Contractor shall not require written approval.

### **5.15 Contractor Debarment, Suspension, and Responsibility**

Federal Regulation 45 CFR 92.35 prohibits the R&E Board from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minnesota Statutes, Section 16C.03, subdivision 2, provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the R&E Board. Vendors may be suspended or debarred when it is determined through a duly authorized hearing process, that they have abused the public trust in a serious manner.

### **5.16 Performance**

All services performed by the Vendor pursuant to this Agreement shall be performed to the satisfaction of the R&E Board, as determined at the sole discretion of its authorized representative, and in accord with all applicable federal, state, and local laws, ordinances, rules and regulations. Services not performed in accordance with the terms and conditions of RFP and contract shall be considered a material breach and shall be cause for immediate termination by R&E Board. The Vendor shall not receive payment for work found by the R&E Board to be unsatisfactory, or performed in violation of federal, state, or local law, ordinance, rule or regulation. In the event of work found by the R&E Board to be unsatisfactory, the R&E Board shall provide Vendor with written notice describing the work found to be unsatisfactory in any reasonable respect and thirty (30) days to correct the unsatisfactory service performed. Vendor shall work with the R&E Board to correct the unsatisfactory service to R&E Board's mutual satisfaction within thirty (30) days of said notice. If service is not corrected to the satisfaction of the R&E Board, it shall be considered a material breach and shall be cause for be immediate termination by R&E Board.

### **5.17 Subcontractors**

The proposer shall not enter into any subcontract for performance of any services contemplated under this agreement nor novate or assign any interest in the agreement without the prior written approval of the R&E Board. Any assignment or novation may be made subject to such conditions and provisions as the R&E Board may impose. If the proposer intends to use subcontractors, the proposer must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

If a proposal with subcontractors is selected, the proposer must provide the following information concerning each prospective subcontractor within five working days from the date of the R&E Board's request:

1. Complete name of the subcontractor
2. Complete address of the subcontractor
3. Type of work the subcontractor will be performing
4. Percentage of work the subcontractor will be providing
5. Evidence, as set out in the relevant section of this RFP, that the subcontractor is registered and, if applicable, holds a valid State of Minnesota business license
6. A written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the services required by the contract and
7. A copy of the prime-contractor/sub-contractor contract verifying the prime-contractor has the sole responsibility for any and all services under this RFP and is financially liable, without exception, to the R&E Board for all services contracted by the proposer under this RFP

The proposer's failure to provide this information, within the time set, may cause the R&E Board to consider its proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the R&E Board's Project Manager or contract administrator designated by the R&E Board. If the proposer subcontracts the obligations under this agreement, the proposer shall be responsible for the performance of all obligations by the subcontractors.

### **5.18 Clarification of Proposals**

In order to determine if a proposal is reasonably susceptible for award, communications by the Point of Contact identified in Table 02 or the proposal Evaluation Committee are permitted with any proposer to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The initial evaluation may be adjusted because of a clarification under this section.

### **5.19 Rights to Submitted Material**

It shall be understood that all proposals, responses, inquiries, or correspondence relating to or in reference to this RFP, and all reports, charts and proposal or referencing information submitted in response to this RFP, shall become the property of the R&E Board, and will not be returned. The R&E Board will use discretion with regard to disclosure of proprietary information contained in any response, but cannot guarantee information will not be made public. As a government entity, the R&E Board is subject to making records available for disclosure.

### **5.20 Contract Negotiation**

After final evaluation, the R&E Board may negotiate with the offerors of the highest-ranked proposal. Negotiations, if held, will be within the scope of the RFP and limited to those items that would not have an effect on the ranking of proposals. If any proposer fails to negotiate in good faith, the R&E Board may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal.

If contract negotiations are commenced, the R&E Board anticipates conducting negotiations remotely through electronic communications and teleconferences, beginning on a date and time to be determined.

If contract negotiations are held in person, they will be held at R&E Board offices, and the offeror will be responsible for all costs including its travel and per diem expenses.

### **5.21 Failure to Negotiate**

If the selected proposer:

1. Fails to provide the information required to begin negotiations in a timely manner;
2. Fails to negotiate in good faith;
3. Indicates it cannot perform the contract within the budgeted funds available for the project; or,
4. If the proposer and the R&E Board, after a good-faith effort, cannot come to terms; then

The R&E Board may terminate negotiations with the proposer initially selected and commence negotiations with the next highest-ranked proposer. At any point in the negotiation process, the R&E Board may, at its sole discretion, terminate negotiations with any or all proposers.

### **5.22 Non-Discrimination Clause**

During the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, disability, age, marital status, or status with regard to public assistance. The Contractor will take affirmative action to ensure that all employment practices are free of such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The Contractor agrees to comply with the nondiscrimination provision set forth in Minnesota Statute 181.59. The Contractor's failure to comply with section 181.59 may result in cancellation or termination of the agreement, and all money due or to become due under the contract may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

### **5.23 ADA**

The Contractor agrees to comply with the Americans with Disabilities Act Section 504 of the Rehabilitation Act of 1973 and not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The Contractor agrees to hold harmless and indemnify the R&E Board from costs, including but not limited to damages, attorney's fees, and staff time, in any action or proceeding brought alleging a violation of ADA and/or Section 504 caused by the Contractor.

#### **5.24 Compliance with Law**

The Contractor will comply with all applicable local, state, and Federal laws, ordinances and regulations in the performance of the Agreement. The contract, amendments, and supplements will comply with and be governed by all laws of the State of Minnesota. Any violation shall constitute a material breach of the executed Agreement. All actions brought under this agreement shall be brought exclusively in Minnesota State Courts of competent jurisdiction with venue in R&E Board.

#### **5.25 Non-Collusion Statement**

Proposers shall complete and sign the non-collusion statement and include it with their proposal.

#### **5.26 Force Majeure**

Neither Party shall be in default by reason of any failure in performance of the contract if such failure arises out of causes beyond their reasonable control and without the fault or negligence of said Party including, unforeseeable acts of nature; terrorism or other acts of public enemy; war and epidemics or quarantine restrictions.

If either Party is delayed at any time in the progress of the work governed by the contract by force majeure, the delayed Party shall notify the other Party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in the notice. The notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this provision. The delayed Party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed Party from performing in accordance with this contract.

#### **5.27 Policy Compliance**

The Proposer shall, as a condition of being awarded this Agreement, to require each of its agents, officers and employees to abide by the R&E Board's policies prohibiting sexual harassment, firearms and smoking, as well as all other reasonable work rules, safety rules or policies regulating the conduct of persons on R&E Board property at all times while performing duties pursuant to this Agreement. The Proposer agrees and understands that a violation of any of these policies or rules constitutes a breach of the Agreement and sufficient grounds for immediate termination of the Agreement by the R&E Board.

#### **5.28 Public Information**

It shall be understood that all Proposals, responses, inquiries or correspondence relating to or in reference to this RFP, and all reports, charts and Proposal or referencing information submitted in response to this RFP shall become the property of the R&E Board, and will not be returned. The R&E Board will use discretion with regard to disclosure of proprietary information contained in any response, but cannot guarantee information will not be made public. As a governmental entity, the R&E Board is subject to making records available for disclosure pursuant to applicable public record disclosure laws, and Proposers, including the Proposer ultimately awarded the contract, shall cooperate in complying with such public disclosure laws at no additional cost to the R&E Board. In the event any Proposer designates materials within its RFP response confidential and/or proprietary and therefore not subject to release pursuant to public record disclosure laws, and if the R&E Board, its employees, and/or its officials are then named in or subjected to legal action based on its refusal to disclose such materials designated confidential and/or proprietary by the Proposer, Proposer agrees to indemnify, hold harmless, and defend the R&E Board in any such action brought against it regarding the R&E Board's refusal to release such Proposer-designated materials pursuant to a public records request.

### **5.29 Audits, Reports, Records and Monitoring Procedures/Records Availability & Retention**

Pursuant to Minn. Stat. section 16C.05 subd. 5, the proposer will:

- Maintain records which reflect all revenues, costs incurred and services provided in the performance of this Agreement.
- Agree that the R&E Board, the State Auditor, or legislative authority, or any of their duly authorized representatives at any time during normal business hours, and as often as they may deem reasonably necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices and involve transactions relating to this agreement. The proposer agrees to maintain and make available these records for a period of six (6) years from the date of the termination of this agreement.

### **5.30 Data Practices**

All data collected, created, received, maintained, or disseminated for any purpose by the activities of the proposer, because of this agreement shall be governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (Act), as amended and the Rules implementing the Act now in force or as amended. The proposer is subject to the requirements of the Act and Rules and must comply with those requirements as if it is a governmental entity. The remedies contained in section 13.08 of the Act shall apply to the proposer.

## **Attachments**

**Attachment 1 – Solicitation Response Form**

**Attachment 2 – Contractor Information and Reference Form**

**Attachment 3 – Contractor Application for Trade Secret Information**

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## Attachment 1 – Solicitation Response Form

**Solicitation Title: Industrial Hygiene Monitoring Services RFP**

**The following shall be completed by the Contractor:**

Contractor Company Name:

Total Number of Solicitation Pages:

Total Number of Pages in Contractor's Solicitation Response:

Acknowledgement and Number of Solicitation Addenda Received:

**PLEASE READ THE FOLLOWING BEFORE COMPLETING THIS SOLICITATION  
RESPONSE FORM**

The provisions of the solicitation document should be reviewed and understood before preparing a solicitation response. Unless the solicitation document provides otherwise, the solicitation response shall be the best price for all labor, equipment, materials and services for the project described in the solicitation document.

### ACKNOWLEDGEMENT

By signing below, I certify that I understand, agree, and bind the Contractor to the provisions contained in the solicitation document for the above Solicitation, including the Solicitation and Contract Terms and Conditions and that I am authorized to submit this solicitation response on behalf of the Contractor.

### COLLUSION

By signing below, I certify that this solicitation response has been prepared without any collusion with other contractors, competitors, R&E Board employees or R&E Board Members and without taking any other action which will restrict competition or constitute fraud or collusion.

Name and Title of Authorized Contractor Representative:

Signature:

Date:

Solicitation Title: Industrial Hygiene Monitoring Services RFP

## **Attachment 2 – Contractor Information and Reference Form**

The R&E Board requires completion of this form for this solicitation. Failure to submit this completed form with the solicitation response will result in rejection of the Contractor's solicitation response.

### Company Information:

1. Contractor Name (as on file with the MN Secretary of State's Office, if applicable):
2. Name of CEO or Company President:
3. FEIN / Contractor Tax ID Number:
4. Minnesota Business Licenses Filing Number:
5. Local Telephone Number:
6. Toll Free Telephone Number:
7. Fax Number:
8. Email Address:
9. Address:
10. City:
11. State:
12. Zip Code:
13. Is your company a Certified Small Business Enterprise ("CERT SBE")?
14. If yes, what is your CERT SBE#?

### Solicitation Response Contact:

1. Name and Title of the person to contact for questions concerning this solicitation response:
2. Local Telephone Number:
3. Toll Free Telephone Number:
4. Fax Number:
5. Email Address:
6. Address:
7. City:
8. State:
9. Zip Code:

### Contract Mailing Address (if different from Company Information):

1. Contact Name and Title:
2. Local Telephone Number:
3. Toll Free Telephone Number:
4. Fax Number:
5. Email Address:
6. Address:
7. City:
8. State:
9. Zip Code:

**Reference Requirements:** Provide a minimum of three (3) references for work completed within the last five (5) years that is similar to what is requested in this solicitation.

1. First Reference

- Company Name:
- Contact Name and Title:
- Local Telephone Number:
- Toll Free Telephone Number:
- Email Address:
- Address:
- City:
- State:
- Zip Code:
- Description of Work Completed:

2. Second Reference

- Company Name:
- Contact Name and Title:
- Local Telephone Number:
- Toll Free Telephone Number:
- Email Address:
- Address:
- City:
- State:
- Zip Code:
- Description of Work Completed:

3. Third Reference

- Company Name:
- Contact Name and Title:
- Local Telephone Number:
- Toll Free Telephone Number:
- Email Address:
- Address:
- City:
- State:
- Zip Code:
- Description of Work Completed:

Name and Title of Authorized Contractor Representative:

Signature:

Date:

## **Attachment 3 – Contractor Application for Designation of Trade Secret Information**

### **Solicitation Title** Industrial Hygiene Monitoring Services RFP

The submitted quote/bid/proposal includes trade secret information that we, the contractor, believe to be classified as nonpublic (relating to a non-person) or private (relating to a person) information under §13.37 of the Minnesota Government Data Practices Act.

As such, we are requesting that certain provisions of our quote/bid/proposal response, as indicated below, be treated as trade secret data and that any request for access to the trade secret data be handled in accordance with the provisions of the R&E Board's Purchasing Standard Terms and Conditions.

Section  
Page #  
Topic

We understand that a decision regarding this request will be made by the R&E Board prior to award. If this classification request is granted, in the event the designation of this information as trade secrets is challenged, we agree to defend, indemnify, and hold harmless the R&E Board against any claims related to the designation of this data as trade secrets data.

We further understand that the R&E Board considers markings of "confidential" or "trade secrets" in the solicitation response to be insufficient to classify information in a response. We agree to indemnify and hold R&E Board harmless from any damages arising out of the release of any materials or data unless they are specifically identified above.

Name and Title of Authorized Preparer

Signature

Date