

**ATTACHMENT I**  
**AUTHORITY CONTRACT**

Control# \_\_\_\_\_

Contract# \_\_\_\_\_

**CONSULTANT AGREEMENT BETWEEN**  
**NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY**  
**AND**

\_\_\_\_\_

This Consultant Agreement ("Agreement") dated this \_\_\_\_ day of \_\_\_\_\_20\_\_, by and between the Northeast Maryland Waste Disposal Authority, a body politic and corporate constituting an instrumentality of the State of Maryland (the "Authority") and (the "Consultant" or "Contractor"), an entity incorporated under the laws of \_\_\_\_\_, with offices at \_\_\_\_\_

**RECITALS**

**WHEREAS**, the Authority is a body politic and corporate and a public instrumentality of the State of Maryland created and existing under Subtitle 9 of Title 3 of the Natural Resources Article of the Annotated Code of Maryland.

**WHEREAS**, the Authority has determined, by Resolution, that it is necessary and desirable to retain the Consultant, on the terms and conditions set forth in this Agreement, to assist the Authority and its staff in carrying out the purposes of the Authority, all as more particularly set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein set forth, and the undertakings of each party to the other, the Authority and the Consultant, acting as aforesaid, and each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

**ARTICLE 1. SCOPE OF WORK**

**Section 101.** The Consultant is being retained to: **[Describe scope of work; may be described with reference to RFP and Consultant's Proposal.]**

**Section 102.** The parties' contract consists of the following documents, in order of precedence: this Agreement, any Work Order issued under this Agreement for specific services, the Request for Proposals dated \_\_\_\_\_, and the Consultant's Technical and Price Proposals dated\_\_\_\_\_  
**[and any other relevant documents.]**

**Section 103.** The following individuals are considered to be key personnel under this Agreement, and will be made available by the Consultant upon the Authority's request to perform any tasks requested by the Authority under the Agreement: \_\_\_\_\_. The Consultant may not substitute any other personnel to perform the Authority's work without the written consent of the Authority.

**Section 104.** In accordance with the Consultant's proposal, the Consultant may team with\_\_\_\_\_. The Consultant may not subcontract any part of the services to be provided without the written consent of the Authority.

**Section 105.** Kim Gordon shall be the Contract Officer for the Authority until such time as the Executive Director may appoint a successor Contract Officer by notice in writing to the Consultant. The Executive Director may also appoint an additional or alternate Contract Officer by notice in writing to the Consultant. Unless the Executive Director otherwise directs, the Contract Officer shall be responsible for the direct administration of all matters pertaining to this Agreement.

**Section 106.** The Contract Officer may from time to time give the Consultant a directive, oral or written, notifying the Consultant of work to be performed under this Agreement. If requested to do so, the Consultant shall promptly upon the receipt of such a directive furnish to the Contract Officer a preliminary written description of the work that the Consultant proposes to undertake in

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

implementing the directive which shall include an estimate of the total cost to the Authority for the Consultant to perform the work and (if requested by the Contract Officer) the date by which the work will be completed. Following such consultations as the Contract Officer or the Executive Director may deem appropriate, the Consultant, if requested to do so, shall submit to the Contract Officer a final written description of the work to be undertaken which shall include (1) identification of the key personnel who will perform the work, (2) identification of any subcontractors to be used in performing the work, and (3) a statement specifying the total maximum cost of the work and a breakdown of compensation to be earned by the Consultant and its subcontractors in performing the work and (if requested by the Contract Officer) the latest date by which the work will be completed. Upon its written approval by the Executive Director, such a final written description shall constitute a Work Order which shall be binding upon the Consultant and shall be subject to modification, amendment or withdrawal by the Consultant only with the express written consent of the Executive Director. The Consultant shall not charge the Authority for the development of this written description.

For work which must begin immediately, is of short duration (up to 45 days), or is anticipated to cost under \$5,000, verbal Work Orders may be issued by the Contract Officer with the concurrence of the Executive Director. The Contract Officer shall prepare a memo describing the verbal Work Order to be filed with this Agreement.

**Section 107.** The Consultant shall not be obligated to perform, and the Authority shall not be obligated to compensate the Consultant for, any work which is outside the scope of the Agreement as set forth in Section 101, or the scope of a Work Order as set forth in Section 106.

**Section 108.** The Consultant shall, from time to time and as frequently as the Contract Officer may request, apprise the Contract Officer of the status and progress of the work being performed by the Consultant pursuant to this Agreement. The Consultant shall maintain in a neat and orderly manner all documents and records relating to work performed pursuant to this Agreement and each Work Order and shall, at the end of the project and before the final invoice for work, turn over to the Authority all information, data, documents, records, reports, drawings, and the like prepared in

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

the course of work hereunder (including, without limitation, the names and addresses of any persons, firms, or agencies dealt with by the Consultant in the performance of such work). All materials prepared by Consultant in connection with this Agreement, including but not limited to records, drawings, and reports, shall be the sole and absolute property of the Authority. The Authority reserves the right to use any such material in any manner. Any use, reuse or modification of the documents shall be at the Authority's and other's sole risk without liability or legal exposure to Consultant unless approved in writing by Consultant prior to such reuse or modification.

**Section 109.** The Consultant shall provide, at the Consultant's own expense, all personnel needed to perform any work required under this Agreement. All such personnel shall be qualified and authorized under applicable law to perform their respective functions. The Consultant shall ensure that none of the Consultant's employees has any direct or indirect interest which would conflict in any manner with the performance of the Consultant's work under this Agreement. The Consultant shall be responsible for any withholding taxes and social security payments due as a result of payment made by the Authority pursuant to this Agreement.

**ARTICLE 2. TERM AND COMPENSATION**

**Section 201.** This Agreement shall be effective January 1, 2024, upon execution hereof by both parties, and, unless sooner terminated or renewed as herein provided, shall expire on December 31, 2028, subject to renewal as set forth below.

This Agreement may be renewed, at the Authority's sole option, for two one-year terms.

**Section 202.** The Consultant shall be compensated for work performed and expenses incurred pursuant to this Agreement generally as provided in the "Rate Schedule" being attached hereto as Exhibit "A" [to be based on proposed rates] and constituting an integral part hereof, as consideration for the performance of work which complies with an oral or written request of the Contract Officer and which is within the general duties described in Section 101. Payment to the Consultant will be based upon a reasonable number of actual hours expended by the Consultant in

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

performance of services under a Work Order.

The Consultant warrants that its rates and charges for the term of this Agreement are not higher than the standard rates and charges for the same services provided under the same circumstances to member jurisdictions of the Authority or to the Maryland Environmental Service.

**Section 203.** The Authority shall in no event be obligated to make any payment to the Consultant for work performed and expenses incurred pursuant to this Agreement if the amount of such payment, together with all other payments theretofore made to the Consultant under this Agreement, would exceed, in the aggregate, One Hundred Thousand Dollars (\$100,000), unless and until the Authority amends this Agreement to increase such limit.

**Section 204.** The Consultant shall submit invoices to the Authority on a periodic basis, but not more frequently than monthly. Each invoice shall specify: (a) the number assigned to this Agreement by the Authority; (b) the total amount of payments received by the Consultant, through the closing date of the invoice period, under this Agreement; (c) the opening and closing dates of the invoice period; and (d) a description of the work performed and itemization of reimbursable expenses incurred during the invoice period. The Consultant shall submit with each invoice such supporting documentation, including receipts and invoices for work performed by subcontractors to the consultant.

The Authority shall render payment within 45 days after receipt of an acceptable invoice from Consultant. Notification of non-acceptance of an invoice shall be made within 30 days of receipt of Consultant's invoice.

The Consultant must notify the Authority in **writing when** 50% and 75% of the total contract amount has been expended. When the Consultant reaches the 75% expenditure amount, the Authority must give the Consultant written notice before work can proceed with the remaining scope. Before notice to proceed is given, the Authority will review the work completed to date and determine if the remaining work can be completed within the contract amount. If the remaining

scope cannot be completed with the remaining budget, a joint determination on how to proceed will be made and agreed to in writing by the Authority and the Consultant.

**Section 205.** The Consultant shall maintain, and make available for inspection by the Contract Officer, detailed records of time spent, and receipts for reimbursable expenses incurred in the performance of work undertaken pursuant to this Agreement.

**Section 206.** The Consultant shall not undertake work until the Authority Contract Officer or designee has provided written approval.

### **ARTICLE 3. DISPUTES**

**Section 301.** Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which cannot be resolved by informal agreement between the parties shall be decided by the Contract Officer. The Contract Officer shall render written decisions within 15 days from receipt of a written request therefore from the Consultant. Upon rendering a decision, the Contract Officer shall promptly deliver or mail it to the Consultant. The written decision of the Contract Officer shall be final and conclusive unless, within 30 days after the date of receipt of such written decision, the Consultant delivers to the Contract Officer a written appeal addressed to the Executive Director of the Authority. The Consultant, prior to decision by the Executive Director, shall be afforded an opportunity to be heard and to offer evidence in support of the appeal. Within 30 days after the date of receipt by the Contract Officer of such written appeal, the Executive Director shall decide the dispute relating thereto, reduce such decision to writing, and deliver or mail it to the Consultant. The decision of the Executive Director shall be final and conclusive, and the Consultant hereby waives any right which it may have, now or in the future, to sue the Authority regarding a question of fact arising under this Agreement, unless such issue of fact has been raised in the aforementioned written appeal and unless the Executive Director's decision is arbitrary, capricious, or unreasonable. Nothing herein contained shall preclude consideration by the Contract Officer or Executive Director of questions of law relating to any dispute arising under this Agreement, but no decision of the Contract Officer or the Executive Director shall be final or conclusive on any question of law. In the event of any dispute arising under this Agreement, the

Consultant shall commence or continue to perform diligently all services described herein pending resolution of such dispute.

#### **ARTICLE 4. GENERAL PROVISIONS**

**Section 401.** The Consultant shall comply with all applicable legal and regulatory requirements in the performance of work under this Agreement, and the Consultant shall provide, at the Consultant's own expense, any licenses, permits or insurance needed to comply with such requirements.

**Section 402.** The Consultant warrants that the Consultant has not employed or retained any person, partnership, or corporation, other than a bona fide employee or agent working for the Consultant, to solicit or secure this Agreement, and that the Consultant has not paid or agreed to pay any person, partnership, or corporation, other than a bona fide employee or agent, any fee, or any other consideration, contingent upon the making of this Agreement. For the breach or violation of this Section, the Authority or its successor may terminate this Agreement without liability and/or, at its option, deduct from any amount otherwise due the Consultant hereunder, or otherwise recover, the full amount of such fee or consideration. Upon termination of this Agreement pursuant to this Section, the Consultant shall refund any and all profits realized under this Agreement. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall in no way be considered and construed as a waiver of, any other legal or equitable rights of the Authority.

#### **Section 403.**

- a. Upon the occurrence of one or more of the following conditions, the Authority may terminate this Agreement without liability on the part of the Authority: (1) the Consultant materially fails, or refuses, to comply with any of the terms of this Agreement or with a directive issued by the Contract Officer; (2) the Consultant, or any of the Consultant's officers, partners, principals, or employees, is convicted of a crime arising out of, or in connection with, the procurement of work to be done or payment to be made under this Agreement; or (3) the Consultant is adjudged bankrupt, or a petition for the appointment

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

of a receiver is filed, or an assignment for the benefit of creditors is made, or the Consultant becomes insolvent during the term of this Agreement. Upon termination of this Agreement pursuant to this Section 403(a), the Consultant shall be paid only the earned value of work satisfactorily performed to the date of termination, determined by the Authority. If this Agreement is terminated because the Consultant, or any of the Consultant's officers, partners, principals, or employees is convicted of a crime arising out of, or in connection with, the procurement of work to be done or payment to be made under this Agreement, then the Consultant shall refund any and all profits realized under this Agreement. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall in no way be considered and construed as a waiver of, any other legal or equitable rights of the Authority.

- b. The Authority may, without liability, terminate this Agreement or any part (or all) of any Work Order for its own convenience upon written notice to the Consultant not less than 30 days prior to the effective date for such termination. In the event of any such termination, the Consultant shall be entitled to compensation for work satisfactorily performed until the termination, plus reasonable costs incurred as a result of the termination.

**Section 404.** Neither this Agreement or any right or duty hereunder shall be assigned, delegated, or otherwise disposed of by the Consultant, except with the prior written consent of the Authority. Any assignment, delegation or other disposal in violation of this Section shall be null and void.

**Section 405.** Consultant shall comply with all applicable federal, State and local laws, rules and regulations involving nondiscrimination on the basis of race, color, creed, political or religious opinion or affiliation, marital status, sexual orientation, national origin, ancestry, age, gender or disability.

**Section 406.** This Agreement shall be governed in accordance with the laws of the State of Maryland, irrespective of conflict of laws.

**Section 407.** If any provision of this Agreement shall for any reason be held to be invalid or



unenforceable, the validity or unenforceability of such provision shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid and unenforceable provision had not been contained herein.

**Section 408.** Except as provided in Section 102, this Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof.

**Section 409.** This Agreement may be amended by written instrument, duly authorized and executed by the parties hereto. Oral statements purporting to amend this Agreement shall be null and void.

**Section 410.** The Consultant shall conduct itself in a manner consistent with its status as a consultant of the Authority under the terms of this Agreement and shall neither hold itself out as, nor claim to be, an officer or employee of the Authority by reason hereof, and shall not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Authority. Nothing herein shall be construed as authorizing the Consultant to enter into any contract or agreement, or to incur any obligation whatsoever, on behalf of the Authority.

**Section 411.**

- a. The Contractor shall defend, indemnify and hold harmless the Authority and its governing board, member jurisdictions, officers, agents and employees (collectively the “Indemnified Parties”), from and against all claims, suits, judgments, expenses, damages and costs (including reasonable attorneys fees) arising out of or resulting from the Contractor’s negligence or other misconduct in the performance or failure to perform the services of the Contractor under this Agreement.
- b. Except for claims for payment for work performed, the Contractor will limit any and all claims it may have under this Agreement by the Contractor against the Authority,

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

its members, officers, staff and employees to an amount not to exceed amounts paid to or on behalf of the Authority as the proceeds of any applicable insurance to pay such claims. The Authority shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees to Contractor for any claims that may arise from or be associated with the performance of this Agreement.

- c. In the event of any payment of any kind by or on behalf of either party to this Agreement under the provisions of this Section to or on behalf of the other party, the paying party shall be subrogated to the extent of the amount of such payment to all rights and remedies of the other party against any third party regarding any matter to which such payment is pertinent.

**Section 412.** The Contractor shall procure, as necessary, and maintain until the termination of this Agreement, the following minimum insurance:

- a. General Insurance Requirements. The Contractor shall not commence services hereunder until the Contractor has obtained, at its own cost and expense, all of the insurance required under this Agreement. All such insurance shall be maintained throughout the term of this Agreement and shall be evidenced by original certificates of insurance signed by authorized representatives of the insurers, which certificates the Contractor shall provide to the Contract Officer.
- b. Insurer Requirements. All insurers underwriting the insurance required hereunder must be allowed to do business in Maryland and otherwise acceptable to Authority. The insurers must have financial strength rating of "A-" or better, and a financial size category of "Class VII" or higher in the latest evaluation by A.M. Best Company, unless the Authority grants, in its sole discretion, prior written approval for an exception.
- c. Policy Requirements. The Contractor agrees to maintain in full force and effect during the term of this Agreement professional liability insurance in an aggregate

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

amount of not less than \$1,000,000, which media or professional liability insurance shall include coverage for practice in the services to be performed under the Agreement. The Contractor agrees that thereafter it shall maintain professional liability insurance in the same amount for the entire period (taking into account any applicable statute of limitations) in which the Contractor and any person, company, partnership or corporation retained or utilized by the Contractor providing services under this Agreement may incur any professional liability in connection with the performance or failure to perform services under the Agreement.

**Section 413.** The Consultant shall not release, other than to the Authority, or publish any information, reports, or documents relating to work performed under this Agreement without the express written consent of the Contract Officer, except for information, reports or documents already in the public domain, already in possession of the Consultant, received from a third party with a right to disclose such information, or required to be disclosed by operation of law.

The Consultant has a special duty to the Authority to maintain confidentiality of documents, information and records that come under the Consultant's control. The Consultant shall refer to the Contract Officer any and all requests for information from persons other than employees of the Consultant, the Authority members, or employees of the Authority.

**Section 414.** The Consultant shall not charge for internal copies of documents, or the mailing of internal documents, without the previous approval of the Contract Officer. When directed by the Contract Officer, the Consultant will prepare all documents, spreadsheets, and presentation material in a format that allows for electronic review.

**Section 415.** The Consultant acknowledges that the Authority may award more than one contract to perform the services in Section 101. The Consultant understands and acknowledges that it has no assurance or guarantee of any minimum amount or type of work under this Agreement. The Authority shall have the sole discretion to determine which firm shall be designated to handle a particular matter.

**Section 416.** The Consultant hereby warrants and represents that:

A. It is qualified to do business in the State of Maryland and will take such action necessary to remain so qualified.

B. It is not in arrears with respect to the payment of any moneys due and owing the State, including, but not limited to, the payment of taxes and employee benefits, and it will not become so in arrears during the term of this Agreement.

C. It shall comply with all federal, State and local laws, ordinances, rules and regulations applicable to its activities and obligations under this Agreement.

D. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Agreement.

**SIGNATURES APPEAR ON NEXT PAGE**

**Request for Proposals – Northeast Maryland Waste Disposal Authority  
Marketing, Public Education, and Communications Services  
July 13, 2023**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Attest:**

**NORTHEAST MARYLAND WASTE  
DISPOSAL AUTHORITY**

\_\_\_\_\_

\_\_\_\_\_  
Andrew Kays  
Executive Director

**Attest:**

**(Selected Contractor)**

\_\_\_\_\_

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

\_\_\_\_\_  
*(Please print or type name)*

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

\_\_\_\_\_  
*(Please print or type title)*